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1923

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1923 Feb. 12 (812)	*To the Ambassador in Great Britain* Note for Foreign Secretary (text printed) stating orders have been issued not to reopen consulate in view of British cancelation of exequatur and of recognition, respectively, of Consul Slater and Vice Consul Brooks on charges not substantiated by U. S. investigation.	306
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HAITI

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AGREEMENT BETWEEN THE UNITED STATES AND JAPAN, SIGNED AUGUST 23, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF MAY 5, 1908

1923		
Aug. 23	*Agreement between the United States of America and Japan* Extending for another 5 years the arbitration convention concluded May 5, 1908, and renewed in 1913 and 1918.	510
Aug. 23	*To the Japanese Ambassador* U. S. understanding that, if Senate assents to U. S. adhesion to protocol of 1920 creating Permanent Court of International Justice, Japan will not be averse to considering modification of arbitration convention or to making a separate agreement to provide for reference to Permanent Court of disputes mentioned in convention.	511
Aug. 23	*From the Japanese Ambassador* Confirmation of U. S. understanding.	511

LATVIA

EXTRADITION TREATY BETWEEN THE UNITED STATES AND LATVIA, SIGNED OCTOBER 16, 1923

1923		
Oct. 16	*Treaty between the United States of America and Latvia* For extradition of fugitives from justice.	513

LUXEMBURG

Accrediting of the American Ambassador to Belgium as Representative of the United States Near the Grand Ducal Government

Date and number	Subject	Page
1922		
Dec. 19 (1148)	*From the Chargé in the Netherlands* Recommendation that combination of missions for Netherlands and Luxemburg be discontinued and that Ambassador to Belgium be accredited as Minister to Luxemburg, because of close economic relationship between Belgium and Luxemburg.	519
1923		
Jan. 12 (470)	*To the Chargé in the Netherlands* Information that recommendation has been made to Congress that Ambassador to Belgium be accredited as Minister to Luxemburg.	520
Mar. 21 (16)	*To the Chargé in the Netherlands (tel.)* Instructions to inform Foreign Minister of Luxemburg of U. S. intention to accredit Ambassador to Belgium as Minister to Luxemburg; also to request *agrément* of Fletcher. (Footnote: Presentation by Fletcher of letter of credence to Luxemburg, October 29, 1923.)	520

MEXICO

Recognition of the Government of General Obregón by the United States and the Resumption of Diplomatic Relations

1923		
Mar. 7 (21)	*To the Chargé in Mexico (tel.)* President Harding's favorable attitude toward suggestion by General Ryan, of Texas Oil Co., that commission composed of two representatives from each country be appointed by United States and Mexico to discuss problems.	522
Apr. 5 (7270)	*From the Chargé in Mexico* Foreign Minister's note of March 31 (text printed) explaining General Obregón's policy concerning regulation of article 27 of the Constitution and indemnification for expropriated lands.	523
Apr. 14 (23)	*From the Chargé in Mexico (tel.)* General Obregón's letter of April 9 to General Ryan (text printed) accepting proposal to appoint commission and offering hospitality of Mexico City to commissioners. Foreign Minister's suggestion that proposal be published simultaneously in both countries; request for text of U. S. announcement.	532
Apr. 17 (30)	*To the Chargé in Mexico (tel.)* Draft of proposed identic statement for press (text printed) announcing commission to meet at Mexico City. Information that reference to "governments" and "presidents" has been purposely avoided in text; that U. S. commissioners will be Charles Beecher Warren and John Barton Payne.	533
Apr. 19 (24)	*From the Chargé in Mexico (tel.)* Draft of identic statement for press proposed by Foreign Minister (text printed). Information that Foreign Minister could not be induced to omit "governments of" from text.	533

MEXICO

RECOGNITION OF THE GOVERNMENT OF GENERAL OBREGÓN BY THE UNITED STATES AND THE RESUMPTION OF DIPLOMATIC RELATIONS—Continued

Date and number	Subject	Page
1923		
Apr. 20 (31)	*To the Chargé in Mexico (tel.)* Acceptance of Foreign Minister's draft statement for press, subject to explanatory statement (text printed) that wording is not to be understood as according U. S. recognition to present regime in Mexico.	534
Apr. 21 (25)	*From the Chargé in Mexico (tel.)* Date for publication of identic statement in Mexico City, if satisfactory to Department.	535
Apr. 22 (32)	*To the Chargé in Mexico (tel.)* Instructions to state that date for publication of identic statement is satisfactory to Department.	535
Apr. 25 (29)	*From the Chargé in Mexico (tel.)* Publication of names of Mexican commissioners.	535
May 5 (2431)	*To the Chargé in Mexico* Instructions to Commissioner Warren, May 5 (text printed) to advise representatives of Belgium, France, Great Britain, Poland, and Cuba of developments arising out of conferences with Mexican commissioners. (Sent also to U. S. Commissioner Payne.)	535
May 8	*To United States Commissioner Warren* Dossier of principal correspondence between Department and Mexico relative to safeguarding U. S. property rights in Mexico, especially against confiscation under Constitution of 1917, as condition for recognition of Obregón regime (excerpts printed), and review of situation; instructions to discuss assurances against confiscation of subsoil interests, restoration of or reparation for expropriated lands, and claims conventions, and to investigate terms of future organic law relative to petroleum. (Sent also to Commissioner Payne.)	536
Aug. 12 (110)	*To the Chargé in Mexico (tel.)* For Warren and Payne: Plan to inform British, French, Belgian, and Cuban missions in Washington of results of negotiations prior to official announcement; instructions to make no public statement of details.	549
Aug. 13 (77)	*From the Chargé in Mexico (tel.)* From Warren: Agreement with Mexican authorities not to release conventions or minutes until both Governments decide on concerted action.	549
Aug. 22 (119)	*To the Chargé in Mexico (tel.)* Note for Foreign Minister (text printed) approving recommendations of U. S. commissioners. Suggestion of procedure for resumption of diplomatic relations and signature of claims conventions.	550
Aug. 25	*From the First Secretary of the Mexican Embassy* Telegram from Foreign Minister, August 24 (text printed) conveying approval by Obregón of recommendations of Mexican commissioners; proposing identic press statement (text printed); and suggesting that signature of conventions follow date of resumption of diplomatic relations by 10 or 15 days.	551

MEXICO

Recognition of the Government of General Obregón by the United States and the Resumption of Diplomatic Relations—Continued

Date and number	Subject	Page
1923 Aug. 25 (121)	*To the Chargé in Mexico (tel.)* Approval of press statement proposed by Mexico; insistence that claims conventions be signed within 1 week after resumption of diplomatic relations.	552
Aug. 27 (85)	*From the Chargé in Mexico (tel.)* Foreign Minister's agreement as to date for signing conventions; desire to release press statement of resumption of relations simultaneously with United States on August 31 at noon, Washington time.	553
Aug. 28	*To the Belgian Chargé* Procedure for resumption of formal diplomatic relations between United States and Mexico, including announcement for press (text printed). (Sent, *mutatis mutandis*, to Cuban, French, British, and Polish representatives.)	554
Aug. 28 (124)	*To the Chargé in Mexico (tel.)* Agreement for simultaneous release of announcement regarding resumption of diplomatic relations.	554
Sept. 3 (91)	*From the Chargé in Mexico (tel.)* Presentation of letter of credence by Chargé and acceptance by Foreign Minister.	555
Sept. 4 (134)	*To the Chargé in Mexico (tel.)* Presentation and acceptance of letter of credence of Téllez as Mexican Chargé d'Affaires *ad interim*.	555
Sept. 8	*General Claims Convention between the United States of America and Mexico* For adjustment of claims by citizens of each country against the other since signing on July 4, 1868, of claims convention, without including claims for losses or damages growing out of revolutionary disturbances in Mexico.	555
Sept. 10	*Special Claims Convention between the United States of America and Mexico* For adjustment of claims arising from losses or damages suffered by Americans through revolutionary acts within period from November 20, 1910, to May 31, 1920, inclusive.	560
Nov. 7 (2539)	*To the Chargé in Mexico* Transmittal of volumes of minutes of conferences in Mexico City between U. S. and Mexican commissioners; U. S. public statement, September 8 (text printed) explaining essential features of general and special claims conventions.	564

Sale of War Material to the Government of Mexico

1923 Dec. 15 (135)	*From the Chargé in Mexico (tel.)* Mexican inquiry whether United States will consider sale to Mexico of two discarded naval cruisers.	567

MEXICO

Sale of War Material to the Government of Mexico—Continued

Date and number	Subject	Page
1923		
Dec. 17 (196)	*To the Chargé in Mexico (tel.)* Instructions to state that sale of war vessels to any foreign government is prohibited by Treaty for Limitation of Naval Armament.	568
Undated	*Memorandum by the Secretary of State of a Conversation with the Mexican Chargé, December 26, 1923* U. S. unwillingness to sell to Mexican Government vessels which could be used as war vessels, as contrary to spirit of naval treaty; promise to consider suggestion that United States sell to Mexican Government certain guns and rifles.	568
Dec. 28 (101)	*From the Minister in Guatemala (tel.)* Authorization of general manager of International Railways to sell oil to Mexican Government at Ayutla, provided no objection is made by Guatemalan Government or U. S. Minister.	568
Dec. 29 (71)	*To the Minister in Guatemala (tel.)* No objection to sale of oil to recognized Government of Mexico.	569
Undated	*Memorandum by the Secretary of State of a Conversation with the Mexican Chargé and the Mexican Commissioner on Confidential Mission in the United States, December 29, 1923* Review of previous conversation with Mexican Chargé, and information that request concerning sale of rifles to Mexican Government is being favorably considered.	569
Dec. 29 (220)	*To the Chargé in Mexico (tel.)* Instructions to inform Foreign Office concerning U. S. statement given to press (text printed) in explanation of U. S. willingness to sell limited quantity of war material to Mexican Government.	569
Dec. 31	*From Señor Enrique Seldner* Protest of Provisional Government of Mexico against reported U. S. intention to deliver munitions to Obregón Government.	570

Authorized Statement by the Federal District Attorney in Boston That the United States Had Not Ceased To Recognize Mexico as an "International Person"

1923		
May 15	*To the Attorney General* Action by United States of Mexico in state courts of Massachusetts against Mariano Viamonte y Fernandez to sequestrate certain property claimed to belong to Mexican Government, right of latter to take action being questioned by defendant. Secretary's request that statement be made before court by U. S. attorney (text printed) affirming that Mexico is recognized as "international person" although there is no intercourse between the two States at present.	571
May 17	*From the Attorney General* Information that U. S. attorney at Boston has been directed to appear in court and make desired statement.	572

MEXICO

AUTHORIZED STATEMENT BY THE FEDERAL DISTRICT ATTORNEY IN BOSTON THAT THE UNITED STATES HAD NOT CEASED TO RECOGNIZE MEXICO AS AN "INTERNATIONAL PERSON"—Continued

Date and number	Subject	Page
1923 July 14	*To the Clerk of the Superior Court of Essex County, Massachusetts* Request for copy of decision in case of *United States of Mexico* v. *Mariano Viamonte y Fernandez.*	572
June 29	*Decision Rendered by the Justice of the Superior Court of Essex County, Massachusetts* Sustaining right of United States of Mexico to take action against Mariano Viamonte y Fernandez in Massachusetts state court.	573

SUIT BY THE OLIVER AMERICAN TRADING COMPANY AGAINST THE GOVERNMENT OF MEXICO IN THE UNITED STATES DISTRICT COURT FOR SOUTHERN NEW YORK

1923 Sept. 8	*To the United States District Judge at New York* Information that negotiations have terminated in U. S. recognition of existing Government of Mexico with accompanying steps to resume diplomatic representation.	574
Oct. 8	*To the United States District Judge at New York* Information that, in response to inquiries of Mr. Oliver, Department is replying that U. S. recognition of Government of Mexico is complete and unconditional.	575
Oct. 19	*From Mr. Ernest Angell of Messrs. Hardin & Hess* Judge Knox's decision granting dismissal of action and vacating attachment on ground defendants were entitled to immunity accorded friendly foreign sovereign. Intention of plaintiff to appeal to Supreme Court and to apply for stay and for maintenance of levies of attachment on defendant's property; request for cooperation of U. S. attorney at New York.	575
Oct. 23	*To Mr. Ernest Angell of Messrs. Hardin & Hess* Information that, as Judge Knox is fully advised, action requested of Department is unnecessary.	576

MOROCCO

DISCUSSION OF THE FUTURE STATUS OF TANGIER

1923 Sept. 22 (405)	*From the Ambassador in Great Britain (tel.)* Incorrect news stories of Embassy representations to Foreign Office regarding future status of Tangier; and of U. S. identic note to France, Great Britain, and Spain urging principle of open door.	578
Sept. 24 (261)	*To the Ambassador in Great Britain (tel.)* Explanation that news story of identic note had its origin in press conference where reference was made to a note presented to France in 1922.	578

MOROCCO

Discussion of the Future Status of Tangier—Continued

Date and number	Subject	Page
1923		
Oct. 1 (417)	*From the Ambassador in Great Britain (tel.)* French proposal of internationalization of local municipal administration of Tangier including port, and introduction of mixed tribunals; also Sultan's edicts to be operative only after acceptance by representatives of the powers.	579
Oct. 14 (438)	*From the Ambassador in Great Britain (tel.)* Foreign Office acceptance (text printed) of French invitation to send representatives to conference at Paris, October 22, to discuss future status of Tangier, conference to be limited to representatives from Great Britain, France, and Spain.	579
Oct. 20 (290)	*To the Ambassador in Great Britain (tel.)* Message for Foreign Office (text printed) as reminder of U. S. interest in maintaining open door at Tangier, and expressing the presumption that contemplated conference will do nothing to interfere with this principle. (Instructions to repeat to Paris and Madrid.)	580
Oct. 23	*To the Portuguese Legation* Reply to Portuguese inquiry concerning U. S. attitude toward conference. (Footnote: Similar reply made October 24 to an Italian inquiry.)	580
Oct. 23 (419)	*From the Chargé in France (tel.)* French proposal to abolish diplomatic agencies at Tangier, substituting consuls general at Rabat, and to maintain consuls at Tangier to represent respective governments in internationalized municipal administration; oral assurance that U. S. rights will be continued in Tangier.	581
Oct. 27 (309)	*To the Ambassador in Great Britain (tel.)* Instructions to make inquiry concerning British attitude toward French program for Tangier; right of United States, pending actual annexation, to continue diplomatic relationship with Morocco under international law and by virtue of certain treaties.	581
Oct. 30 (3637)	*From the Chargé in France* French written assurances of maintenance of open door in Tangier and submission of results of conference to all signatories of act of Algeciras except Germany and Austria. Expression of hope that United States will give its natural sequence to recognition of French protectorate over Morocco and cancel capitulations in French zone.	582
Oct. 31 (477)	*From the Ambassador in Great Britain (tel.)* British endeavor to obtain complete and independent internationalization of Tangier in opposition to French attempt to create nominal internationalization under French control.	583
Nov. 28 (429)	*To the Chargé in France (tel.)* Instructions to present informally U. S. attitude that surrender of capitulatory rights in French zone is not a natural sequence to recognition of protectorate or to adherence to convention for internationalization of Tangier. (Instructions to repeat to London and Madrid.)	584

MOROCCO

Discussion of the Future Status of Tangier—Continued

Date and number	Subject	Page
1923		
Dec. 1 (487)	*From the Ambassador in France (tel.)* Report that draft convention regarding Tangier will be ready within 15 days; outline of provisions. Further assurance of French that U. S. rights and open door will be maintained.	584
Dec. 7 (445)	*To the Ambassador in France (tel.)* Instructions to inform Foreign Office that provisions of draft convention concerning Tangier are not satisfactory to U. S. Government.	585
Dec. 19 (523)	*From the Ambassador in France (tel.)* Signature of Tangier convention. Eventual administration of port by international company, permitting U. S. participation if desired.	585

Consent by the United States to the Payment of Consumption Taxes by American Citizens and Protégés in the Spanish and French Zones

1923		
Mar. 23 (117)	*From the Diplomatic Agent and Consul General at Tangier* Refusal of Spanish authorities at port of Tetuan to release sugar imported by Bergel, U. S. protégé, unless 10 percent consumption tax is paid. Spanish High Commissioner's note, March 8 (text printed) giving notice of consumption tax on sugar, tea, and coffee in Spanish zone and requesting U. S. consent thereto.	585
Apr. 21 (11)	*To the Diplomatic Agent and Consul General at Tangier (tel.)* Request for opinion whether consumption tax would affect Americans more unfavorably than nationals of most favored nation.	587
Apr. 28	*From the Diplomatic Agent and Consul General at Tangier (tel.)* Exemption of British subjects from tax, pending British recognition of legality. Continuation of collection from U. S. citizens and protégés.	587
May 8 (260)	*To the Diplomatic Agent and Consul General at Tangier* Note presented to Spanish Ambassador stating that United States is prepared to consent to tax if applied equitably and if other governments acquiesce; request also for reimbursement of amounts collected and exemption of U. S. citizens and protégés pending such consent. Instructions to report when British acquiescence to tax is given.	587
June 26	*From the Chargé at Tangier (tel.)* British regulation ordering subjects and protégés to pay tax. Nonpayment by nationals and protégés of Netherlands.	588
June 29 (14)	*To the Chargé at Tangier (tel.)* Instructions to confer with representatives of governments whose nationals and protégés do not pay tax, and to inform Department when such governments consent to imposition.	589
July 4	*From the Chargé at Tangier (tel.)* Information that nationals and protégés of all governments except Netherlands are paying tax; request for authorization to direct U. S. nationals and protégés to pay without awaiting action of Netherlands Government.	589

MOROCCO

CONSENT BY THE UNITED STATES TO THE PAYMENT OF CONSUMPTION TAXES BY AMERICAN CITIZENS AND PROTÉGÉS IN THE SPANISH AND FRENCH ZONES—Continued

Date and number	Subject	Page
1923		
July 11 (17)	*To the Chargé at Tangier (tel.)* Desire for opinion as to feasibility and method to be followed in securing deposit with Agency of amount of taxes improperly collected from U. S. citizens and protégés.	589
July 16	*From the Chargé at Tangier (tel.)* Report that tax has been returned in only instance of improper collection, i. e., in Bergel case; but that authorities are holding shipment of gin consigned to American semsar, Cohen, for payment of duty.	590
July 19 (19)	*To the Chargé at Tangier (tel.)* Instructions to inform Spanish Agency at Tangier and U. S. citizens and protégés that Department cannot support refusal to pay consumption tax after release of Cohen's shipment.	590
July 31 (20)	*To the Chargé at Tangier (tel.)* Instructions to make proper notification of U. S. consent to tax, if information is true that this tax does not apply to Cohen's shipment and that no attempt has been made to collect tax on shipment.	590
Aug. 13	*From the Chargé at Tangier (tel.)* Opinion that Cohen's shipment might be subject of separate representations, as alcohol comes under *dahir* issued before tax in question. Notice to U. S. citizens and protégés of consent by United States to tax on sugar, tea, and coffee. Application of tax to subjects of Netherlands.	591
Sept. 14 (169)	*From the Chargé at Tangier* Inquiry whether United States will consent to increase in rate of consumption taxes applicable to American *ressortissants* in French zone.	591
Nov. 12 (271)	*To the Diplomatic Agent and Consul General at Tangier* U. S. consent to increased tax rates applicable to American *ressortissants* in French zone, with certain reservations.	594
Nov. 17 (21)	*To the Ambassador in Spain* Note for Foreign Office (text printed) conveying Department's conditional consent to tax on alcohol in Spanish zone.	595
Dec. 24 (174)	*From the Ambassador in Spain* Report concerning presentation of note conveying U. S. conditional consent to tax on alcohol in Spanish zone.	596

INTERFERENCE BY THE FRENCH RESIDENCY GENERAL WITH THE CERTIFICATION OF AMERICAN PROTÉGÉS

1922		
July 24 (20)	*From the Diplomatic Agent and Consul General at Tangier* Objections raised by French Residency General to designation of Ben Said as semsar of Vacuum Oil Co. at Salee, on ground that semsar sought U. S. protection to secure political immunity. Request for instructions.	596

MOROCCO

Interference by the French Residency General With the Certification of American Protégés—Continued

Date and number	Subject	Page
1922		
Oct. 10 (221)	*To the Diplomatic Agent and Consul General at Tangier* Instructions to investigate circumstances of Ben Said's semsarship and to submit further report.	597
Dec. 26 (241)	*To the Diplomatic Agent and Consul General at Tangier* Instructions to inform French Residency General that investigation has revealed no evidence of French charges and therefore the United States regards Ben Said as entitled to rights and privileges of semsar and U. S. protection will be extended to him.	598
1923		
June 14 (144)	*From the Chargé at Tangier* Refusal of Maghzen to recognize Ben Said as being under U. S. protection. Excerpt from French Residency General note of June 8, 1923 (text printed) conveying impression that U. S. Agent had given assurances that name of Ben Said would not appear on U. S. list for 1923. Request for information and instructions.	600
Sept. 20 (266)	*To the Diplomatic Agent and Consul General at Tangier* Instructions to state to French Residency General that assurances were given that name of Ben Said would be removed from U. S. list for 1923 only if investigation proved he had used U. S. protection to further political activities; and that investigation has not been completed. (Footnote: Closing of depot at Salee by Vacuum Oil Co. and request for cancelation of Ben Said's semsarship.)	602
Oct. 26 (180)	*From the Diplomatic Agent and Consul General at Tangier* Note from French Residency General, October 2 (text printed) maintaining decisions of Maghzen relative to list of U. S. protégés.	603

NICARAGUA

American Assistance in the Revision and Administration of the Electoral Laws of Nicaragua

1923		
Jan. 18 (4)	*To the Minister in Nicaragua (tel.)* Instructions to urge enactment by Nicaraguan Congress of election law drafted by Dr. Harold W. Dodds.	605
Mar. 17 (22)	*From the Minister in Nicaragua (tel.)* Passage by Congress of election law drafted by Dodds.	605
Undated	*Memorandum by the Secretary of State of a Conversation with the Nicaraguan Minister, September 28, 1923* Secretary's recommendations regarding Nicaraguan situation, proposing withdrawal of U. S. Marines after new government takes office, aid by Dodds and assistants to secure effective operation of election law, and U. S. cooperation in establishing constabulary; Minister's conditional acceptance.	606

NICARAGUA

American Assistance in the Revision and Administration of the Electoral Laws of Nicaragua—Continued

Date and number	Subject	Page
1923		
Oct. 8 (102)	*To the Chargé in Nicaragua* Note for Foreign Office (text printed) conveying information that U. S. Marines will be withdrawn in January 1925 upon installation of government; suggesting that Dodds and assistants be requested to aid in installation of electoral system; and offering assistance in organizing and training constabulary. Information concerning U. S. position; U. S. intention to pay expenses of Dodds and assistants.	607
Nov. 20 (82)	*From the Minister in Nicaragua (tel.)* Willingness of President Martinez to accept services of Dodds and assistants in starting new election system; doubt that their expenses should be paid by United States. Opinion that U. S. observers will not be desired at elections.	612
Nov. 23 (52)	*To the Minister of Nicaragua (tel.)* Instructions to inform President Martinez that, if Nicaraguan Government desires to pay expenses of electoral experts, United States will have no objection.	612
Dec. 13 (57)	*To the Minister in Nicaragua (tel.)* Instructions as to arrangements for services of Dodds and assistants.	613
Dec. 14 (93)	*From the Minister in Nicaragua (tel.)* Acceptance by Nicaraguan Government of U. S. proposals relative to withdrawal of U. S. Marines and electoral assistance by Dodds; desire to establish constabulary if Financial Plan of 1920 can be modified to provide for maintenance.	613

Question of the Status of Great Corn and Little Corn Islands

1923		
Oct. 1	*From the Secretary of the Treasury* Request for opinion, in connection with inquiry by exporter desiring free entry of coconuts from islands, whether Little Corn and Great Corn Islands are part of United States; citation of provision in treaty of 1914 leasing islands to United States for 99 years.	614
Oct. 29	*To the Secretary of the Treasury* Information that in international sense islands may be deemed part of United States but that United States has not taken possession of islands under lease and Nicaragua has continued to exercise jurisdiction therein. Request to be informed as to policy of Treasury Department regarding islands.	615
Nov. 3	*From the Secretary of the Treasury* Opinion that, for purposes of tariff act of 1922, islands should be treated as foreign country.	615

NORWAY

PAYMENT BY THE UNITED STATES OF THE AWARD TO NORWAY RENDERED BY THE ARBITRATION TRIBUNAL SET UP UNDER THE SPECIAL AGREEMENT OF JUNE 30, 1921

Date and number	Subject	Page
1923 Jan. 11	*To President Harding* Report on arbitration award made October 13, 1922, in claims of Norwegians against United States arising out of requisitions of U. S. Emergency Fleet Corp.; letter of U. S. arbitrator explaining reasons for absenting himself when award was announced (text printed); criticisms of award. Recommendation that award be accepted and that matter be presented to Congress for necessary appropriations.	617
Jan. 12	*From President Harding* Desirability of accepting award and making payment. Submission of matter to Congress for necessary appropriations.	625
Feb. 26	*To the Norwegian Minister* Draft on U. S. Treasurer for payment of award covering Norwegian claims; U. S. refusal to accept certain bases of award as declaratory of international law or as binding upon Government as precedents.	626
July 19	*From the Norwegian Chargé* Information that Norway holds award to be correct in form as well as realities.	628

AGREEMENT BETWEEN THE UNITED STATES AND NORWAY, SIGNED NOVEMBER 26, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 4, 1908

1923 Nov. 26	*Agreement between the United States of America and Norway* Extending for another 5 years the arbitration convention concluded April 4, 1908, and renewed in 1913 and 1918.	629
Nov. 26	*To the Norwegian Minister* U. S. understanding that, if Senate assents to U. S. adhesion to protocol of 1920 creating Permanent Court of International Justice, Norway will not be averse to considering modification of arbitration convention or to making of separate agreement to provide for reference to Permanent Court of disputes mentioned in convention.	630
Nov. 26	*From the Norwegian Minister* Confirmation of U. S. understanding.	631

STATEMENT BY NORWAY OF ITS PARAMOUNT INTEREST IN THE ISLAND OF JAN MAYEN IN THE ARCTIC OCEAN

1920 Feb. 9	*From the Norwegian Chargé* Notification of occupation of Island of Jan Mayen by Norwegian citizen in 1917.	631

NORWAY

Statement by Norway of Its Paramount Interest in the Island of Jan Mayen in the Arctic Ocean—Continued

Date and number	Subject	Page
1920 Feb. 26	*To the Norwegian Chargé* Communication to appropriate branch of Government of notification regarding occupation of Island of Jan Mayen by Norwegian citizen in 1917.	632
1922 Apr. 21	*From the Norwegian Minister* Notification of annexation of Island of Jan Mayen by Norwegian citizen in name of Norwegian Meteorological Institute, following occupation beginning November 12, 1921.	632
Nov. 9 (66)	*To the Minister in Norway* Instructions to inquire whether Norway claims ownership of Island of Jan Mayen, and if so to report full details.	633
1923 July 5 (244)	*From the Minister in Norway* Note from Foreign Office, June 30 (text printed) stating that Norway regards Island of Jan Mayen as *terra nullius;* but assumes that, because of Norway's special interests, no other power would attempt to annex island.	633

Arrangement Between the United States and Norway for Reciprocal Exemption From Income Tax on Shipping

1922 Feb. 13	*From the Norwegian Minister* Information that foreign shipping is exempt from taxation in Norway, in reply to U. S. notification that Revenue Act for 1921 exempts from taxation ships of a foreign country granting equivalent exemption to U. S. citizens. Expression of hope that tax exemption for Norwegian shipowners will be retroactive to 1917.	635
Feb. 28	*From the Norwegian Minister* Further information concerning freedom of foreign shipping from taxation in Norway. Reiteration of hope that tax exemption for Norwegian shipowners will be retroactive to 1917.	635
Nov. 14	*To the Norwegian Minister* Information that under U. S. revenue act of 1921 Norwegian shipping corporations are exempt from income and excess and war profits taxes but are not exempt from capital stock tax.	636

PANAMA

Announcement by the United States of Intention To Abrogate the Taft Agreement

1923 Undated	*Memorandum by the Secretary of State of a Conversation with the Panaman Minister, January 4, 1923* Cordial desire of each to open negotiations for new arrangement to replace Taft Agreement.	638

PANAMA

Announcement by the United States of Intention To Abrogate the Taft Agreement—Continued

Date and number	Subject	Page
1923 Jan. 3	*From the Panaman Minister* Observations concerning negotiation of treaty of 1903, Taft Agreement, and present situation existing in Panama; list of controversial questions to be adjusted by new arrangement to replace Taft Agreement.	638
Oct. 15	*To the Panaman Minister* Reply to Panaman Minister's observations on negotiation of treaty of 1903 and the Taft Agreement; discussion seriatim of controversial questions raised by Minister.	648
Oct. 15	*To President Coolidge* Passage, February 6, of Senate Joint Resolution 259 authorizing abrogation of Taft Agreement. Request for authorization to notify Panama that United States will abrogate agreement May 1, 1924, thus allowing 6 months for negotiations for new arrangement.	675
Oct. 15	*From President Coolidge* Authorization to inform Panama that the United States will abrogate Taft Agreement on May 1, 1924.	676
Oct. 18	*To the Minister in Panama* Instructions to inform Foreign Office that, in virtue of Senate Joint Resolution 259 (text printed), United States will abrogate Taft Agreement May 1, 1924.	676
Nov. 17 (352)	*From the Minister in Panama* Foreign Minister's note, November 14 (text printed) asserting that Taft Agreement is a true treaty and therefore cannot be abrogated by United States without Panama's consent; and expressing reservations as to sufficiency of 6-month period for negotiating new arrangement.	678
Dec. 14 (150)	*To the Minister in Panama* Note for Foreign Minister (text printed) maintaining that Taft Agreement is merely a *modus vivendi* to serve during construction of Canal; quoting statements of Taft in support of this view; and expressing hope that negotiations will not be protracted beyond date specified.	679
Undated	*Memorandum by the Secretary of State of a Conversation with the Panaman Minister, December 15, 1923* Secretary's statement that, if agreement is effected by May 1, 1924, United States will stand on treaty rights without Taft Agreement; suggestion that negotiations be conducted by Canal Zone authorities and Panaman representatives; assertion that United States would never surrender rights acquired under treaty of 1903 but would enter into negotiations regarding other matters.	682

PANAMA

Loan of $4,500,000 to Panama by American Bankers

Date and number	Subject	Page
1922		
Dec. 15 (66)	*From the Minister in Panama (tel.)* Section of bill introduced in National Assembly (text printed) providing for transfer to Panama National Bank of 6-million-dollar Canal fund on deposit in United States.	687
Dec. 28 (58)	*To the Minister in Panama (tel.)* Instructions to make representations to President against signing of bill, if passed, and to remind him of Panaman promise to keep Canal fund intact and safely invested to stabilize Government finances.	688
1923		
Feb. 17 (14)	*From the Minister in Panama (tel.)* President's approval of bill authorizing loan of 4½ million dollars for road building; elimination from bill of section providing for withdrawal from the United States of 6-million-dollar Canal fund.	688
Mar. 9 (23)	*From the Minister in Panama (tel.)* Government's request for loan of $100,000 from bankers in Panama to continue program of road construction. Willingness of bankers to make loan if Department has no objections.	689
Mar. 15 (18)	*To the Minister in Panama (tel.)* Inquiry as to names of banking interests involved and whether Government regards $100,000 as advance on 4½-million-dollar loan.	689
Mar. 16 (27)	*From the Minister in Panama (tel.)* Urgent need of loan for road construction; beneficial nature of proposed larger loan for same purpose. Subfiscal agent's suggestion that Panama secure $100,000 from International Banking Corp., Banco Nacional, and American Foreign Banking Corp., to be paid for out of 4½-million-dollar loan.	689
Apr. 25	*Memorandum by the Chief of the Division of Latin American Affairs, Department of State* Mission of Dr. Morales to United States to negotiate loan of 4½ million dollars; his proposed visit to Department.	690
May 18	*To the Panaman Minister* Inquiry as to Panama's plans concerning (1) liquidation of debt to Canal arising from use of unpledged portion of Canal annuity for water-tax deficit, if United States should consent to use of Canal annuity as partial security for 4½-million-dollar loan; (2) letting of road construction contracts; (3) appointment of fiscal agent; (4) public bids for loan.	691
May 21	*From the Panaman Minister* Information that (1) debt to Canal has been paid; (2) contracts for road building will be let to public bidders under supervision of Central Roads Board; (3) negotiations for fiscal agent are progressing; and (4) loan contract has been awarded to W. A. Harriman & Co. and Guaranty Trust Co.	692
May 22	*To W. A. Harriman & Co., Inc., New York City* No objections to 4½-million-dollar loan.	694

PANAMA

Loan of $4,500,000 to Panama by American Bankers—Continued

Date and number	Subject	Page
1923 May 25 (56)	*From the Minister in Panama (tel.)* Telegram from Panaman Minister at Washington to President of Panama (text printed) giving details of loan contract signed May 16.	694

Objections by Panama to the Continued Control of Its Wireless Communications by the United States

1922 Dec. 19	*From the Panaman Minister* Proposal that decree of 1914 giving control over wireless in Panama to United States be annulled because of end of war emergency and because of developments in wireless communications.	695
1923 Jan. 11	*To the Panaman Minister* View that decree of 1914 confirmed to United States permanent and absolute control of wireless in Panama accorded by treaty of 1903; refusal to consent to annulment of decree; offer, however, to discuss measures for adaptation of regulations to meet new conditions in wireless communication.	698
Jan. 11 (2)	*To the Minister in Panama (tel.)* Instructions to ascertain whether Panama contemplates immediate abrogation of decree of 1914, and, if so, to make protest.	700
Jan. 24 (7)	*From the Minister in Panama (tel.)* No immediate danger that Panama will rescind decree. Order given, however, for two receiving sets, one for President's palace; naval commandant's opinion that U. S. permission should have been requested.	701
Jan. 26 (7)	*To the Minister in Panama (tel.)* Instructions for putting into operation schedule of telephone broadcasting from radio naval station, Canal Zone, for benefit of Panamans; also for regulations permitting installation of receiving sets, subject to necessary restrictions.	701
Apr. 26 (47)	*From the Minister in Panama (tel.)* Panaman refusal to interpret treaty of 1903 and agreement of 1914 as giving U. S. control over wireless communications after conclusion of war.	702
July 19 (117)	*To the Chargé in Panama* Instructions not to make formal representations regarding control of wireless if matter can be left satisfactorily for present *in statu quo;* authorization, if necessary, to make clear to Panaman Government that none of rights under decree of 1914 are being relinquished.	702

PANAMA

OBJECTIONS BY PANAMA TO THE CONTINUED CONTROL OF ITS WIRELESS COMMUNICATIONS BY THE UNITED STATES—Continued

Date and number	Subject	Page
1923 Oct. 25	*Memorandum by the Under Secretary of State of a Conversation with the Ecuadoran Minister* Recommendation to Minister, upon his inquiry, that Ecuadoran negotiations with Panama relative to control of wireless messages between two countries be postponed until after Inter-American Communications Conference; Minister's assent.	703

REFUSAL BY THE UNITED STATES TO SURRENDER TO PANAMA FUGITIVES ESCAPING INTO THE CANAL ZONE FROM THE JUSTICE OF A THIRD GOVERNMENT

1923 June 12	*To the Panaman Minister* Refusal to surrender to Panama for extradition two fugitives from justice of Chile detained by Canal Zone authorities.	704
July 7	*To the Panaman Minister* Refusal to agree to Panama's interpretation of article XVI of treaty of 1903 as providing for cooperation of Canal authorities in delivery of fugitives to Panama to surrender to third government. Advice that under Canal Act of 1912 United States has right to surrender fugitives in Canal Zone direct to foreign governments.	705
Oct. 13	*To the Panaman Minister* Further arguments in support of Department's refusal to agree to Panama's interpretation of article XVI of treaty of 1903. Refusal to submit difference of interpretation to arbitration.	707

PERSIA

GRANT OF AN OIL CONCESSION IN NORTHERN PERSIA TO THE SINCLAIR EXPLORATION COMPANY, SUBJECT TO CONFIRMATION BY THE PERSIAN MEJLISS

1923 Mar. 26	*Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State* Progress of loan negotiations of J. P. Morgan & Co. in connection with possible grant of North Persian oil concession to Standard Oil Co. of New Jersey. Department's policy of absolute impartiality as between U. S. companies competing for concession; and Department's attitude toward desire of Morgan & Co. to float part of loan in England.	711
Mar. 30 (7)	*To the Minister in Persia (tel.)* Department's explanation to Sinclair Exploration Co. that their allegations concerning partiality of Millspaugh, Persian Financial Adviser, toward Standard Oil Co. negotiations have not been corroborated; and that since Persia was aware that Millspaugh had no official status in United States, there could be no misapprehension in Persia that Millspaugh's policy was that of Department.	712

PERSIA

Grant of an Oil Concession in Northern Persia to the Sinclair Exploration Company—Continued

Date and number	Subject	Page
1923		
June 27	*From the Consul at Teheran* Passage, June 13, by Mejliss of bill authorizing Government to offer North Persian oil concession to U. S. company, conditional upon 10-million-dollar loan to Persia. Discussion of clause prohibiting concessionaire from assignment or transfer of rights to foreigners and clause restricting concession to four of the five Caspian provinces.	713
June 29	*From the Consul at Teheran* Passage, June 20, by Mejliss of bill authorizing grant of oil concessions to Persian subjects in the Caspian province excepted from exploitation by U. S. companies.	715
Oct. 21	*From the Consul at Teheran* Negotiations of Standard Oil Co. and Sinclair Co. to obtain acceptable draft concession. Sentiment in favor of obliging U. S. financial mission to administer Persian affairs on basis of Persian revenues solely and without recourse to foreign loans.	716
Nov. 8	*To President Coolidge* Statement of Department's policy and attitude toward American commercial enterprise abroad, in connection with dissatisfaction of Sinclair Co. regarding support of company's efforts to secure oil concession in North Persia.	717
Nov. 8 (29)	*To the Minister in Persia (tel.)* Instructions to inform Government of U. S. policy of impartiality and desire to extend proper diplomatic support to U. S. interests abroad in accordance with principle of open door.	718
Nov. 9	*To the Persian Minister* Information of U. S. attitude regarding U. S. companies in Persia, in connection with competition for North Persian oil concession.	719
Nov. 21 (2014)	*From the Persian Minister* View that no misapprehension exists in Teheran regarding U. S. attitude, and that no change has occurred in Persian policy regarding oil concession.	720
Dec. 20	*From the Consul at Teheran (tel.)* Signature of North Persian oil concession by Prime Minister and representative of Sinclair Co.	720
1924		
Jan. 5 (343)	*From the Minister in Persia* Contract, dated December 20, 1923, granting oil concession to Sinclair Company (text printed).	720

POLAND

Efforts by the United States To Prevent Discrimination in Poland Against the United States Lines in the Transportation of Emigrants to America

Date and number	Subject	Page
1923		
Jan. 20	*From the Consul General at Warsaw (tel.)* Report on refusal of representative of United States Lines to sign discriminatory license for shipment of emigrants, as prepared by Polish authorities; closing of the offices of the Lines by Polish police; the consul general's intention to close visa section of his office by January 22.	738
Jan. 22 (4)	*To the Minister in Poland (tel.)* For Consul General Keena: Disapproval of closing of visa section of consulate general; instructions to resume granting of visas.	739
Jan. 24 (10)	*From the Minister in Poland (tel.)* Request that consul general's stand be sustained as justified by circumstances of discrimination and because of probable adverse consequences if Department's instructions to reopen visa section are continued. Opinion that real reason for discrimination is Polish desire to boycott German ports at U. S. expense.	739
Jan. 25 (6)	*To the Minister in Poland (tel.)* Instructions to make representations against closing of offices of United States Lines as unjustifiable action against U. S. Government; to present memorandum (text printed) explaining status of Lines; and to reopen visa office.	741
Jan. 27 (17)	*From the Minister in Poland (tel.)* Report of reopening of visa section of consulate general and voluntary removal by Polish Government of ban on office of United States Lines.	742
Jan. 29 (18)	*From the Minister in Poland (tel.)* Conversation with Foreign Minister for purpose of securing action against continuation of harmful tactics toward Americans by Polish authorities; Foreign Minister's promise of written assurances of satisfactory treatment for United States Lines and arrangement for Lines to continue temporarily under previous license.	742
Mar. 30 (23)	*To the Minister in Poland (tel.)* Instructions to urge Polish authorities to grant to United States Lines same treatment respecting Polish-American traffic as enjoyed by Red Star Line. Assurance of Department's support in all representations in behalf of Lines' license.	743
Apr. 13 (75)	*To the Minister in Poland (tel.)* Polish Government's reasons for refusal to grant Lines' application for license to transport passengers by rail to Bremen; Government's desire to negotiate commercial treaty with United States. Recommendations for effective action by United States against Polish treatment.	744

POLAND

EFFORTS BY THE UNITED STATES TO PREVENT DISCRIMINATION IN POLAND AGAINST THE UNITED STATES LINES IN THE TRANSPORTATION OF EMIGRANTS TO AMERICA—Continued

Date and number	Subject	Page
1923 Apr. 23 (34)	*To the Minister in Poland (tel.)* Note for Foreign Minister (text printed) stating U. S. understanding of discriminatory action of Poland in refusing license application and expressing hope that Polish Government will reconsider attitude and accord treatment to United States Lines equivalent to that afforded foreign competitors.	746
May 16 (1658)	*From the Minister in Poland* Foreign Minister's note, May 16 (text printed) disclaiming any desire to discriminate against U. S. interests and affirming that Poland excludes German ports from concessions granted navigation companies because of possible competition with port of Danzig.	747
May 24	*From the Consul General at Warsaw (tel.)* Tacit agreement between United States Lines and Poland for shipment of emigrants by rail to Bremen; prospect that this arrangement can be continued through quota season if question of formal license is not pressed.	750
June 20 (50)	*To the Minister in Poland (tel.)* Instructions to acknowledge Foreign Office note of May 15 and state that discussion of matter will be dropped for present. Shipping Board's desire not to press for formal license.	751
June 23 (119)	*From the Minister in Poland (tel.)* Recommendation that Foreign Office note remain unanswered pending further developments.	751

PORTUGAL

AGREEMENT BETWEEN THE UNITED STATES AND PORTUGAL, SIGNED SEPTEMBER 5, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 6, 1908

1923 Sept. 5	*Agreement between the United States of America and Portugal* Extending for another 5 years the arbitration convention concluded April 6, 1908, and renewed in 1913 and 1918.	752
Sept. 5	*To the Portuguese Minister* U. S. understanding that, if Senate assents to U. S. adhesion to protocol of 1920 creating Permanent Court of International Justice, Portugal will not be averse to considering modification of arbitration convention or to making separate agreement to provide for reference to Permanent Court of disputes mentioned in convention.	753
Sept. 5	*From the Portuguese Minister* Confirmation of U. S. understanding.	753

RUSSIA

Continued Refusal by the United States To Recognize the Soviet Regime in Russia

Date and number	Subject	Page
1923 Mar. 21	*Press Release Issued by the Department of State* Secretary's remarks to delegation of Women's Committee for Recognition of Russia on U. S. policy toward Soviet regime in Russia.	755
July 9	*From the President of the American Federation of Labor* Request for statement of U. S. position regarding recognition of Soviet Russia.	758
July 19	*To the President of the American Federation of Labor* Statement of U. S. position regarding recognition of Soviet Russia.	760
Nov. 8 (1458)	*From the Minister in Latvia* Report on theories and activities of Russian Communist Party, Communist International, Red International of Trade Unions, and Russian Soviet Government; statements of Trotsky, Zinoviev, Chicherin, Radek, and others (excerpts printed). Resolutions of Twelfth Congress of Russian Communist Party (texts printed). (Copies sent by Department, December 29, to diplomatic representatives in Europe, Japan, and China.)	764
Dec. 16 (613)	*The Soviet Commissar for Foreign Affairs to President Coolidge (tel.)* Desire of Soviet Government to bring about resumption of friendly relations with the United States and to enter negotiations to that end.	787
Dec. 18	*To the Consul at Reval (tel.)* Communication for Soviet representative at Reval for transmission to Soviet Commissar for Foreign Affairs (text printed) containing statement of U. S. refusal to enter into negotiations.	788
Dec. 19	*Press Release Issued by the Department of State* Article by Steklov from *Izvestia* (text printed) containing instructions given to Workers' Party of America by Zinoviev, President of Communist International and Petrograd Soviet for conducting more intensive revolutionary work in United States.	788
Dec. 24	*Press Release Issued by the Department of State* Article by Steklov from *Izvestia* of November 7, 1922 (text printed) asserting solidarity of Soviet Republics and Communist International, as signified by convening of Fourth Congress simultaneously with celebration of anniversary of October Revolution.	790

Closing of the American Consulate at Vladivostok

1923 Feb. 22 (7)	*From the Consul at Vladivostok (tel.)* Notification by local authorities that 3 months will be allowed consul to obtain exequatur through negotiation between United States and People's Commissariat for Foreign Affairs at Moscow.	792

RUSSIA

Closing of the American Consulate at Vladivostok—Continued

Date and number	Subject	Page
1923 Mar. 2 (19)	*To the Chargé in Japan (tel.)* Instructions to advise consul at Vladivostok that Department will not apply for exequatur and that, if necessary, he may close consulate; Department's desire, however, that consulate be kept open as long as possible.	793
Mar. 21 (11)	*From the Consul at Vladivostok (tel.)* Report concerning consul's protest to local authorities against confiscation of merchandise of International General Electric Co.; suggestion that Department lodge additional protest.	793
Mar. 26 (12)	*From the Consul at Vladivostok (tel.)* Refusal of local authorities to discuss representations made on behalf of International General Electric Co. and International Harvester Corp., pending official recognition as consul.	794
Mar. 27	*To the Consul at Vladivostok (tel.)* Instructions not to file further protests.	794
Apr. 2 (31)	*From the Chargé in Japan (tel.)* Opinion that retention of consul at Vladivostok is not only useless but incompatible with U. S. dignity.	794
Apr. 20 (40)	*From the Chargé in Japan (tel.)* Telegram from consul at Vladivostok, April 19 (text printed) stating intention to close consulate on May 1.	795
Apr. 20 (38)	*To the Chargé in Japan (tel.)* Instructions for consul at Vladivostok to inform local authorities of U. S. intention to close consulate unless immunities and privileges are assured. Information that office at Chita is being closed.	795
May 3 (48)	*From the Chargé in Japan (tel.)* Telegram from consul at Vladivostok, May 1 (text printed) stating that Moscow authorities refuse immunity and privileges requested, and that consulate will be closed May 15.	796
May 22 (140)	*From the Consul Formerly at Vladivostok* Closing of consulate May 15 and departure of staff from Vladivostok.	797

Refusal by the Department of State To Make Special Representations to the Japanese Government on Behalf of American Oil Companies With Interests in Russian Sakhalin

1921 May 12	*From the President of the Sinclair Consolidated Oil Corporation* Request for Department's views relative to company's negotiations with Far Eastern Republic for contract to conduct explorations for oil on Russian part of Island of Sakhalin, now under Japanese military occupation.	798

RUSSIA

REFUSAL BY THE DEPARTMENT OF STATE TO MAKE SPECIAL REPRESENTATIONS TO THE JAPANESE GOVERNMENT ON BEHALF OF AMERICAN OIL COMPANIES WITH INTERESTS IN RUSSIAN SAKHALIN—Continued

Date and number	Subject	Page
1921 Sept. 27	*To the Sinclair Consolidated Oil Corporation* Inability to encourage definite engagements for exploration of Russian Sakhalin in view of uncertainty of situation and nonrecognition of Far Eastern Republic by United States.	799
1922 Jan. 12 (27)	*To the Ambassador in Japan* Reported operations of Japanese group in connection with petroleum prospecting in Russian Sakhalin; information regarding Sinclair contract and sundry claims initiated prior to 1915.	799
Sept. 26	*From the Chief of the Division of Russian Affairs, Department of State* Conversation with representative of Sinclair Consolidated Oil Corp. relative to continued occupation by Japanese of Russian Sakhalin. Reaffirmation of Department's position of nonrecognition of Far Eastern Republic and disapproval of Japanese occupation.	801
1923 Feb. 7	*From the Sinclair Exploration Company* Signature, January 7, 1922, of contract and supplementary agreement with Far Eastern Republic and ratification, January 23, 1923, by Russian Soviet Government. Request that Japanese Government be notified of early arrival of Sinclair party on Island of Sakhalin and be requested to extend usual courtesies.	802
Mar. 17	*To the Sinclair Exploration Company* Department's refusal to make representations to Japan on behalf of company.	804
Apr. 2	*From the Sinclair Exploration Company* Explanation that company's request for representations to Japan rests on rights of U. S. nationals comprising Sakhalin exploration party to usual courtesies from friendly power rather than on rights of company under contract. Desire to know best way to safeguard interests of personnel if Department cannot comply with request.	805
Apr. 14	*To the Sinclair Exploration Company* Information that U. S. passports can be issued to Sinclair party, that they are valid for all countries, but holders can enter territory of foreign country only upon consent of latter. No objection to direct communication with Japan concerning admission of party to Russian Sakhalin.	807
May 19	*To Mr. Francis B. Loomis of the Standard Oil Company of California* Reply similar to that sent Sinclair Co., April 14, in answer to Standard Oil's request that Department secure through Embassy at Tokyo permission to send party to Russian Sakhalin to explore for petroleum.	808

RUSSIA

REFUSAL BY THE DEPARTMENT OF STATE TO MAKE SPECIAL REPRESENTATIONS TO THE JAPANESE GOVERNMENT ON BEHALF OF AMERICAN OIL COMPANIES WITH INTERESTS IN RUSSIAN SAKHALIN—Continued

Date and number	Subject	Page
1923		
May 22	*From Mr. Francis B. Loomis of the Standard Oil Company of California* Request for further consideration of company's application for special representations to Japanese Government.	809
June 12	*To Mr. Francis B. Loomis of the Standard Oil Company of California* Department's declination to accede to Standard's request for special representations to Japanese Government.	810
Oct. 24	*From the Sinclair Exploration Company* Information that company has sent party to Russian Sakhalin to commence exploratory work for oil.	811
Nov. 1	*To the Sinclair Exploration Company* Acknowledgment of letter of October 24, 1923.	811
1924		
Mar. 14	*From the Sinclair Exploration Company* Information that company's exploration party was not permitted by Japanese military authorities in control of Russian Sakhalin to do any work and was obliged to leave on February 20, 1923.	812

PLEDGE GIVEN TO THE DEPARTMENT OF STATE BY AN AMERICAN OIL CONCESSIONAIRE IN RUSSIA NOT TO INFRINGE UPON THE EXISTING RIGHTS OF AMERICANS OR OTHER FOREIGNERS IN RUSSIA

1923		
Jan. 30	*To the International Barnsdall Corporation* No objections to proposed activities of corporation in Russian oil fields if conducted on own responsibility without infringing upon rights of others; request for written confirmation of understanding to this effect.	812
Feb. 1	*From the Chairman of the Board of Directors of the International Barnsdall Corporation* Confirmation of understanding, pledging corporation not to encroach upon property rights of foreign nationals or, in case of unwitting encroachment, to seek satisfactory adjustment.	813
Feb. 12	*To the International Barnsdall Corporation* Department's interpretation of pledge; request for confirmation.	814
Feb. 14	*From the International Barnsdall Corporation* Confirmation of Department's interpretation of pledge, with slight modification.	815

RUSSIA

Displeasure Expressed by the United States at Sentences of Death Passed Upon Roman Catholic Clergy in Russia

Date and number	Subject	Page
1923 Mar. 28	*To President Harding (tel.)* Appeals to Department from Catholic societies to protest against sentence of death passed by Russian Soviet authorities on Archbishop Zepliak and other ecclesiastics. Suggestion that Ambassador in Berlin be instructed to make known to Soviet representative how deeply action against ecclesiastics has stirred public opinion in United States.	815
Mar. 28	*From President Harding (tel.)* Acquiescence in suggestion to make known to Russian Soviet authorities U. S. sentiment in regard to death sentence for ecclesiastics.	816
Mar. 28 (27)	*To the Ambassador in Germany (tel.)* Instructions to communicate informally with Soviet representative in Berlin regarding effect on U. S. public mind of sentence of death passed upon ecclesiastics in Russia.	816
Mar. 30 (63)	*From the Ambassador in Germany (tel.)* Information that Soviet representative, already informed by press of nature of U. S. representations, refused to meet Ambassador informally without instructions from Moscow.	817
Mar. 31 (30)	*To the Ambassador in Germany (tel.)* Probability that Russians are sufficiently informed of U. S. sentiment not to require notification by Ambassador. Instructions to communicate message through Embassy secretary if approached by Soviet representative.	817
Apr. 9	*To President Harding* Proposed reversal of decision to grant visa for wife of Soviet President to visit the United States, as in effect a protest against action of Soviets in condemning ecclesiastics and executing Vicar General.	818
Apr. 9	*From President Harding* Acquiescence in proposed exclusion from the United States of wife of Soviet President as protest against treatment of ecclesiastics in Russia.	819
Apr. 10 (17)	*To the Minister in Latvia (tel.)* Cancelation of authorization sent consuls at Riga and Reval to grant visa to wife of Soviet President to visit the United States.	819
Apr. 13	*From the Chief of the Division of Russian Affairs, Department of State* Regret of Russian agent, as expressed in conversation with officer of Military Intelligence Division, concerning loss to cause of Russian recognition in United States resulting from execution of Vicar General.	820
Apr. 16	*From the Counselor of the Embassy in Germany* Conveyance to Soviet representative, informally, of Department's message inviting attention to unfortunate impression on Americans of condemnation and execution of ecclesiastics.	821

SALVADOR

Statement of the Limited Responsibility of the Department of State Under the Loan Contract of June 24, 1922

Date and number	Subject	Page
1923		
Jan. 9 (2)	*To the Chargé in Salvador (tel.)* Information that bankers have been advised that Department has no objections to their proceeding under loan contract of June 24, 1922.	823
Apr. 9	*To Messrs. Lansing & Woolsey* No objections to sale of limited number of bonds in London provided loan is issued in accordance with contracts submitted.	823
Aug. 29 (50)	*From the Minister in Salvador (tel.)* National Assembly's approval of all pending loan decrees.	824
Oct. 20 (28)	*To the Minister in Salvador (tel.)* Statement issued to press October 18 (text printed) presenting true particulars of Department's relation to Salvadoran loan, to refute misleading impression that United States has entered into a secret treaty with Salvador.	824
Oct. 29	*From Senator Couzens* Transmittal of article from *The Nation* entitled "Mr. Hughes Makes a Secret Alliance." Request for correct information.	825
Nov. 7	*To Senator Couzens* Information concerning understanding with Salvador, effected by exchange of notes, July 17, 1922, regarding carrying out of loan stipulations relating to collector of customs and settlement of disputes by submission to arbitration of Justice of Supreme Court of United States or another member of Federal judiciary.	825
Nov. 15	*From Senator Couzens* Inquiry as to wisdom of policy of assigning officials of U. S. courts and other U. S. public officers to arbitrate differences between foreign governments and private U. S. citizens.	826
Nov. 28	*To Senator Couzens* Information that it is customary in contracts between U. S. companies and Latin American governments to provide for arbitration; that in Salvadoran loan both parties desired Secretary of State to use good offices in submitting disputes to Chief Justice of Supreme Court or another member of Federal judiciary.	827
Dec. 3	*From Senator Couzens* Opinion that submission of disputes to some unofficial board of arbitration would be safer for both countries, or else agreements should be made public and confirmed by Senate.	828
Dec. 7	*To Senator Couzens* Information that exchange of notes in this case was not treaty requiring confirmation by Senate, only an understanding between executive branches of the governments, by which Secretary consents to do certain things within customary limits of diplomatic action. Invitation to inspect notes exchanged.	829

SPAIN

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE UNITED STATES AND SPAIN—AGREEMENT TO PROROGUE THE COMMERCIAL AGREEMENT OF 1906 TO MAY 5, 1924

Date and number	Subject	Page
1923		
May 18 (162)	*To the Ambassador in Spain* Draft treaty of friendship and commerce to be submitted to Spain (text printed). Comments on provisions of treaty.	831
June 6 (43)	*From the Ambassador in Spain (tel.)* King's objection to treaty because of U. S. liquor control regulations prohibiting Spanish ships with wine on board from entering U. S. ports.	847
June 8 (45)	*From the Ambassador in Spain (tel.)* Presentation of Special Assistant Hackworth to Foreign Minister; agreement to initiate treaty negotiations in spite of obstacle of U. S. liquor control regulations.	848
June 12 (46)	*From the Ambassador in Spain (tel.)* From Hackworth: Objections of Lago, president of Spanish treaty commission, to the draft treaty. Suggestion that United States refuse to sign proposed treaty with Spain on ship's liquor stores and cargo until conclusion of treaty of amity and commerce.	848
June 13 (30)	*To the Ambassador in Spain (tel.)* For Hackworth: Categorical reply to Lago's objections to U. S. draft treaty; Department's desire to avoid conditional acceptance of proposed treaty on ship's liquor stores and cargo, insisting, however, that stringency of U. S. regulations cannot be relinquished unless Spain's commercial relations with United States accord with proposed treaty of amity and commerce.	849
June 15 (48)	*From the Ambassador in Spain (tel.)* Lago's suggestion that schedule of articles be substituted for most-favored-nation clause in proposed treaty, as was done in British treaty; favored position of British as purchasers of 50 percent of Spain's exports. Ambassador's recommendations.	851
June 18 (31)	*To the Ambassador in Spain (tel.)* For Hackworth: U. S. commitment to principle of unconditional most-favored-nation treatment. Possible proposal of temporary *modus vivendi* in case of deadlock on this issue.	852
June 25 (57)	*From the Ambassador in Spain (tel.)* Opinion that application for *modus vivendi* should be made at once; request for instructions.	853
June 29 (39)	*To the Ambassador in Spain (tel.)* Instructions to inquire whether Spain would agree to exchange of notes for continuance of commercial arrangement of 1906 pending conclusion of new treaty. Draft *modus vivendi* (text printed).	853
July 3 (62)	*From the Ambassador in Spain (tel.)* Letter, June 25, to Foreign Minister requesting conference for Hackworth with treaty commission. Foreign Minister's reply (text printed) granting request but indicating improbability of early conclusion of negotiations. Ambassador's counterreply presenting U. S. proposal for *modus vivendi*.	854

SPAIN

Failure To Conclude a Treaty of Friendship and Commerce Between the United States and Spain, etc.—Continued

Date and number	Subject	Page
1923		
July 4 (64)	*From the Ambassador in Spain (tel.)* Decision to withhold temporarily proposal of *modus vivendi* and urge proceeding at once with negotiations.	856
July 6 (66)	*From the Ambassador in Spain (tel.)* Conference with treaty commission: Spanish preference for separation of commercial from general relations; maintenance of position regarding granting of unconditional most-favored-nation treatment through schedules of articles; and statement that negotiations must be based on admission of Spanish wine and tariff reductions on certain Spanish products. Hackworth's explanations of U. S. prohibition and tariff laws.	856
July 10 (42)	*To the Ambassador in Spain (tel.)* Further inquiries as to Spain's position; recommendation of immediate request for *modus vivendi;* undesirability of separating commercial from general and other provisions of treaty.	858
July 11 (67)	*From the Ambassador in Spain (tel.)* Foreign Minister's offer to proceed to consideration of commercial treaty alone and assurance of *modus vivendi* should negotiations not be completed before November 5, when commercial arrangement of 1906 expires. Recommendation that treaties be separated.	859
July 12 (68)	*From the Ambassador in Spain (tel.)* Further explanation of Spain's refusal to agree to use of term "most-favored-nation treatment" and Spain's bases for negotiation.	860
July 14 (43)	*To the Ambassador in Spain (tel.)* Note for Foreign Minister (text printed) accepting Spanish offer to proceed to consideration of an exclusively commercial treaty, with understanding that 1906 commercial arrangement shall continue in force pending conclusion of new commercial treaty.	861
July 25 (74)	*From the Ambassador in Spain (tel.)* Discussion of short draft of treaty with treaty commission; view of commission that conflict of tariff systems of United States and Spain can be solved only by Council of Ministers.	862
July 26 (75)	*From the Ambassador in Spain (tel.)* Foreign Minister's request for U. S. consent to increase duty on tea, coffee, and sugar in Spanish Morocco to facilitate obtaining Council of Ministers' approval of *modus vivendi.*	863
July 27 (47)	*To the Ambassador in Spain (tel.)* Information that Department has already consented to imposition of consumption tax on sugar, tea, and coffee in Spanish Morocco.	863
Oct. 3 (89)	*From the Ambassador in Spain (tel.)* Spanish proposal of certain considerations to permit prorogation of 1906 arrangement.	864

SPAIN

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE UNITED STATES AND SPAIN, ETC.—Continued

Date and number	Subject	Page
1923		
Oct. 8 (63)	*To the Ambassador in Spain (tel.)* Note for Spanish Government (text printed) in reply to Spanish proposal for prorogation of 1906 arrangement. Request that any further proposals or statements be made in writing.	865
Oct. 8 (90)	*From the Ambassador in Spain (tel.)* Note from President of Military Directory (text printed) confirming oral proposal for prorogation of 1906 arrangement.	866
Oct. 17 (100)	*From the Ambassador in Spain (tel.)* Note from President of Military Directory, October 6 (text printed) agreeing to prorogation of 1906 arrangement for 6 months, but excluding United States from benefits of treaties negotiated by Spain during prorogation.	867
Oct. 20 (68)	*To the Ambassador in Spain (tel.)* Note for Foreign Office (text printed) expressing satisfaction with temporary arrangement, but reserving freedom of action with respect to Spanish imports if U. S. goods are not accorded benefits given to other countries.	867
Oct. 22 (103)	*From the Ambassador in Spain (tel.)* Spanish refusal to accept U. S. reservation. Cable from Spanish Ambassador in Washington (excerpt printed) stating that United States is disposed to reduce customs on Spanish imports by virtue of section 315 (a) of Tariff Act and to waive most-favored-nation clause for *modus vivendi*. Request for confirmation.	868
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May 30	*From the Swedish Minister* Request that Department seek enactment by Congress of legislation providing retroactive exemption of Swedish owners from payment of income tax.	877
Aug. 9	*To the Swedish Chargé* Inability of Department to comply with request to seek legislation providing income-tax exemption for Swedish owners retroactive to January 1, 1917.	878

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AMERICAN PARTICIPATION IN THE LAUSANNE CONFERENCE ON NEAR EASTERN AFFAIRS

FIRST PHASE

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July 27 (269)	*To the Special Mission at Lausanne (tel.)* Department's proposal to include in treaty a modification of Turkish formula for settlement of claims, to avoid disadvantage of separate convention.	1127
July 29 (569)	*From the Special Mission at Lausanne (tel.)* Ismet's assurance that Turkish Government has no thought of refusing just claims, but cannot be responsible for losses ensuing from war, etc. Mission's rejection of his offer of new formula (text printed). Grew's intention to propose modified formula in Department's telegram no. 269 of July 27, to avoid rupture of negotiations. Transmittal of report on draft of treaty, and suggestion that signature be authorized.	1128
July 30 (573)	*From the Special Mission at Lausanne (tel.)* Draft of final claims formula based on conversation between Ismet and Grew (text printed). Ismet's refusal to consider minorities; and his views on other questions. Mission's opinion that United States must present ultimatum or accept Turkish formula on claims.	1130
July 31 (273)	*To the Special Mission at Lausanne (tel.)* Reasons why Department does not favor presenting ultimatum. Suggestion of adding phrase to Turkish formula providing for obligation to examine and settle just claims. Authorization to accept Ismet's offer as last resort.	1133
Aug. 2 (578)	*From the Special Mission at Lausanne (tel.)* Acceptance of claims formula by Turkish delegation with reservation that understanding be reached on contested nationality. Proposed notes to be exchanged between Ismet and Grew on subject (texts printed). Request for instructions.	1134
Aug. 5 (585)	*From the Special Mission at Lausanne (tel.)* Mission's rejection of new claims formula proposed by Turkish representatives (text printed). Agreement to proceed to exchange of notes on claims (texts printed) and to signature of treaties. Mission's receipt of copies of declarations and letters agreed upon. Contents of *procès-verbal.*	1135

TURKEY

NEGOTIATION AND SIGNING OF A GENERAL TREATY AND AN EXTRADITION TREATY BETWEEN THE UNITED STATES AND TURKEY—Continued

Date and number	Subject	Page
1923		
Aug. 5 (279)	*To the Special Mission at Lausanne (tel.)* Willingness to accept Turkish formula reported in Mission's telegram no. 573 of July 30 rather than postpone settlement; or, as alternative, to carry out procedure in Mission's telegram no. 585 of August 5, making U. S. reservations as to claims and capitulations. Prospect of early resumption of diplomatic relations in event of settlement of claims question and ratification by Turkey.	1137
Aug. 6 (588)	*From the Special Mission at Lausanne (tel.)* Signature of treaties; formal communication of letters on schools and of declarations concerning judicial and sanitary matters.	1138
Aug. 4	*The Turkish Plenipotentiary to the American Plenipotentiary* Declaration of July 24 relating to administration of justice (text printed); declaration of July 24 relating to sanitary affairs (text printed).	1139
Aug. 4	*The Turkish Plenipotentiary to the American Plenipotentiary* Identic letter from Chief of Turkish Delegation to Chiefs of Allied Delegations at Lausanne Conference (text printed) recognizing existence of their religious and philanthropic institutions. Information that similar treatment will be applied to U. S. institutions in Turkey.	1141
Aug. 6	*The American Plenipotentiary to the Turkish Plenipotentiary* Understanding that question of claims is reserved for subsequent discussion as soon as possible after 20 days, but reserving right to postpone ratification of treaties.	1143
Aug. 6	*The Turkish Plenipotentiary to the American Plenipotentiary* Confirmation of U. S. understanding regarding claims settlement.	1143
Undated	*Minutes of the Meeting Held at Lausanne, August 6, 1923* *Procès-verbal* of interpretations and views of U. S. and Turkish representatives regarding certain articles of general treaty; mutual concurrence and acceptance.	1144
Undated	*Report of the Subcommittee of the Lausanne Conference Charged with the Study of the Regime of Religious, Scholastic, and Charitable Institutions, May 18, 1923* Confirmation by Turkish delegation of previous assurances on three points regarding Allied institutions, applicable also to U. S. religious, scholastic, and charitable entities in Turkey.	1148
Aug. 6	*From the Special Mission at Lausanne* Expression of regret at number of points conceded to Turkey in negotiations; mention of most-favored-nation treatment in establishment articles as most important principle gained; opinion that U. S. concessions were essential to conclusion of negotiations; expressions of appreciation of assistance rendered by staff and of support by Department.	1148

TURKEY

Negotiation and Signing of a General Treaty and an Extradition Treaty Between the United States and Turkey—Continued

Date and number	Subject	Page
1923 Dec. 8 (320)	*From the High Commissioner at Constantinople (tel.)* Report that leaders of American colony feel that activities are progressing satisfactorily under present regime in Turkey and that Turkish authorities are reasonable and well disposed; their unanimous desire that treaty be ratified.	1150
1924 Jan. 29 (1354)	*From the Minister in Switzerland* General treaty and treaty of extradition between the United States and Turkey, signed at Lausanne, August 6, 1923 (texts printed).	1151

Exchange of Letters Between the United States and Turkey Providing for the Establishment of a Joint Committee To Examine Claims

1923 Aug. 8 (285)	*To the Special Mission at Lausanne (tel.)* Instructions for High Commissioner at Constantinople (text printed) to resume claims negotiations at Angora; importance of not permitting question of naturalization to become chief issue; desirability of establishing commission of U. S. and Turkish representatives to consider individual claims at early date.	1172
Sept. 15 (240)	*From the High Commissioner at Constantinople (tel.)* Possibility of preparing way for formal negotiations by informal exploratory discussions between experts at Constantinople. Opinion that Turks will accept Department's proposal of claims commission; further observations.	1174
Sept. 23 (249)	*From the High Commissioner at Constantinople (tel.)* Request for immediate authorization to get in touch with Turkish experts; presence of Mustafa Cherif at Constantinople.	1176
Sept. 25 (173)	*To the High Commissioner at Constantinople (tel.)* Authorization to resume negotiations for settlement of claims.	1176
Sept. 29 (181)	*To the High Commissioner at Constantinople (tel.)* Department's inability to supply complete data on claims until later; enumeration of classes of claims not to be pressed.	1177
Oct. 18 (271)	*From the High Commissioner at Constantinople (tel.)* Granting by Turkey of full powers to Adnan Bey to negotiate with respect to U. S. claims; naming of U. S. and Turkish experts. Acceptance of suggestion of informal, exploratory conversations to begin October 22 at Sublime Porte. Question of full powers for Bristol.	1178
Oct. 27 (200)	*To the High Commissioner at Constantinople (tel.)* For Bristol: Granting of full powers to negotiate and sign with Turkey claims and naturalization conventions.	1179

TURKEY

EXCHANGE OF LETTERS BETWEEN THE UNITED STATES AND TURKEY PROVIDING FOR THE ESTABLISHMENT OF A JOINT COMMITTEE TO EXAMINE CLAIMS—Cont.

Date and number	Subject	Page
1923		
Nov. 8 (293)	*From the High Commissioner at Constantinople (tel.)* Report on first plenary meeting: Turks' willingness to undertake benevolent examination of specific claims; opposition in principle to submission of claims to arbitration; insistence that claims growing out of war be excluded; and suggestion (1) that certain claims be submitted to local authorities and other claims be handled through regular diplomatic channels, or (2) that negotiations be adjourned, with agreement to reopen within 6 months after general and extradition treaties have been ratified.	1179
Nov. 17 (214)	*To the High Commissioner at Constantinople (tel.)* Instructions to make representations regarding Turkey's proposals and refusal to submit claims to arbitration; also to suggest that Turks agree by exchange of notes to postpone negotiations and to have joint U. S.-Turkish committee set up within 6 months for settlement of those claims upon which it agrees and to decide classes of claims to be referred to arbitration. Department's inclination to end negotiations should Turks refuse both this exchange of notes and the submission of points at issue to arbitration; intimation of nonratification of general treaty.	1181
Dec. 3 (223)	*To the High Commissioner at Constantinople (tel.)* Instructions to report progress of negotiations on claims and naturalization conventions; U. S. intention not to send general treaty to Congress before decision on claims question is reached; difficult situation if no solution is found by time treaty between Turks and Allies is ratified.	1183
Dec. 6 (318)	*From the High Commissioner at Constantinople (tel.)* Report that negotiations regarding claims are proceeding satisfactorily, with prospect of agreement for an examining commission. Unwisdom of pressing for naturalization agreement at this time.	1184
Dec. 8 (224)	*To the High Commissioner at Constantinople (tel.)* Importance of arriving at early agreement on claims because of general treaty ratification and regularization of relations with Turkey. Ismet's statement at Lausanne Conference regarding Turkey's resort to arbitration to settle claims dispute with Soviet Government. Inquiry as to Turkish plans for submitting general treaty to National Assembly.	1184
Dec. 10 (325)	*From the High Commissioner at Constantinople (tel.)* Turkish counterproposal to set up, after general treaty has been ratified, a commission of two U. S. and two Turkish members to examine claims presented within 6 months of its constitution, commission's proceedings not to be made public without mutual consent. Request for authorization to sign arrangement, with revision extending time limit to 1 year.	1185
Dec. 13 (227)	*To the High Commissioner at Constantinople (tel.)* Willingness of Department to accept Turkish counterproposal if certain conditions can be agreed upon.	1186
Dec. 16 (329)	*From the High Commissioner at Constantinople (tel.)* Adnan Bey's acceptance of Department's conditions, with minor exceptions as to time limit and form of agreement.	1188

TURKEY

Exchange of Letters Between the United States and Turkey Providing for the Establishment of a Joint Committee To Examine Claims—Cont.

Date and number	Subject	Page
1923 Dec. 20 (234)	*To the High Commissioner at Constantinople (tel.)* Authorization to proceed to exchange of letters with Adnan Bey.	1188
1924 Jan. 4 (1070)	*From the High Commissioner at Constantinople* Exchange of letters, December 24, 1923, with Adnan Bey (texts printed) confirming arrangement between Turkey and the United States for examination of claims by mixed committee to be established 6 months after exchange of ratifications of general treaty.	1189

Decision by the Department of State To Postpone Negotiations for a Naturalization Treaty With Turkey

1923 Aug. 6 (202)	*From the High Commissioner at Constantinople (tel.)* Turkey's refusal to permit naturalized Americans of Ottoman origin to enter Turkey. Recommendation that no passports be issued to persons of Ottoman origin for return to Turkey.	1191
Aug. 6 (203)	*From the High Commissioner at Constantinople (tel.)* Adnan Bey's statement that naturalized Americans of non-Ottoman origin will be permitted to enter Turkey, but those arriving of Ottoman origin will be requested to leave.	1192
Aug. 21 (157)	*To the High Commissioner at Constantinople (tel.)* Information that naturalized citizens are entitled to full protection of U. S. law, that passports cannot be denied them but that such travelers may be warned of present Turkish regulations. Instructions not to communicate information to Turkish authorities, but to make appropriate representations.	1192
Aug. 24 (219)	*From the High Commissioner at Constantinople (tel.)* Recommendation that negotiations for naturalization treaty with Turkey be postponed until general treaty has gone into effect and normal consular and diplomatic relations are resumed.	1193
Sept. 29 (178)	*To the High Commissioner at Constantinople (tel.)* Desirability of reaching *modus vivendi* with Turkey on subject of naturalization before treaties go to Senate; instructions to seek solution through informal conversations, explaining U. S. law, citing treaties with other nations as precedents, etc.	1193
Dec. 31 (340)	*From the High Commissioner at Constantinople (tel.)* Recommendation that negotiations for naturalization treaty be postponed pending complete exploration of subject and, possibly, development of better attitude by Turks. Reasons.	1196
1924 Jan. 10 (9)	*To the High Commissioner at Constantinople (tel.)* Approval of recommendation to postpone negotiations; request that *modus vivendi* be effected, if possible.	1198

TURKEY

GRANT OF A CONCESSION TO THE OTTOMAN-AMERICAN DEVELOPMENT COMPANY (CHESTER PROJECT) AND THE FAILURE OF THE COMPANY TO OBTAIN SUBSTANTIAL FINANCIAL BACKING

Date and number	Subject	Page
1923 Jan. 15 (294)	*To the Acting High Commissioner at Constantinople* Instructions to observe utmost circumspection to avoid giving impression that Department may be particularly concerned in success of any one American concern. Disposition of United States to accord proper diplomatic support but to refuse special privileges to American interests and citizens. (Sent also to American Mission at Lausanne.)	1198
Undated	*Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State* Conversations with General Goethals on Chester concession: Goethals' expectation that Department would give vigorous support to concession; inquiry in respect to Chester claims as against British interests in Mosul; expectation to interest British and French capital in project under an American-controlled company. Dulles' opinion on advisability of proposed visit of Admiral Chester to Lausanne.	1200
Apr. 12 (104)	*From the High Commissioner at Constantinople (tel.)* French protest to Turkey against adoption of Chester project by National Assembly.	1201
Apr. 13 (150)	*To the Ambassador in France (tel.)* Information that French protest represents concession of Ottoman-American Development Co. as conflicting with alleged rights of French interests. Department's views that concession is not monopolistic nor objectionable, and that question of conflict should be settled by friendly understanding or impartial tribunal. (Instructions to repeat to Berne, London, Rome, and Constantinople.)	1201
Apr. 16 (111)	*From the High Commissioner at Constantinople (tel.)* Acceptance of Chester project by National Assembly, April 9, with certain changes. Observations regarding reasons for and effect of French protests. Recommendation that United States support concession.	1202
Undated	*Memorandum by the Secretary of State of a Conversation with the French Ambassador, April 16, 1923* French Ambassador's representations regarding conflict between French concession obtained before war and Chester project. Secretary's request for facts and legal questions involved, with assurance of careful examination by Department.	1204
Apr. 19 (118)	*From the High Commissioner at Constantinople (tel.)* Summary of agricultural concession to Ottoman-American Development Co., negotiated by Clayton-Kennedy, for sale to private individuals in Turkey of agricultural machines and implements and for establishment of model farms, etc., with Government guaranty.	1205
Apr. 20 (76)	*To the High Commissioner at Constantinople (tel.)* Instructions to forward text of ratified project and summary of principal changes; also to maintain greatest reserve with both Allies and Turks until situation has developed further.	1206

TURKEY

GRANT OF A CONCESSION TO THE OTTOMAN-AMERICAN DEVELOPMENT COMPANY, ETC.—Continued

Date and number	Subject	Page
1923 Apr. 28 (268)	*From the Special Mission at Lausanne (tel.)* Postponement of Lausanne Conference discussion of economic clauses relating to concessions, giving French concessionaires time to arrive at direct settlement with Turkey regarding Chester concession. Understanding that, if French claim comes up at Lausanne, it will have support of British and Italian delegates. Inquiry whether capital of Ottoman-American Development Co. is 49 percent Canadian.	1208
Apr. 30 (331)	*From the British Ambassador* Attention called to press report that Chester concession comprises rights in Mesopotamia; statement that British Government cannot recognize validity of any concession in Mesopotamia granted by Turkish Government at Angora.	1208
May 1	*To the British Ambassador* Assurance that careful consideration will be given to British note when more definite information is available as to exact nature of Chester concession.	1209
May 2 (132)	*From the High Commissioner at Constantinople (tel.)* Signing of Chester project agreement at Angora, April 29.	1209
May 2 (122)	*To the Special Mission at Lausanne (tel.)* Information that Barnard, a Canadian, owns majority of stock, but that voting trust agreement gives Americans present and future control of Ottoman-American Development Co.	1209
May 4 (124)	*To the Special Mission at Lausanne (tel.)* Telegram, April 27, from Otto H. Kahn denying press report that Kuhn, Loeb and Co. is backing Chester project; his doubt, expressed during conversation at Department May 2, that project could secure necessary financial backing without some Government support. Department's belief that Turkish abrogation of treaty obligations, capricious legislation, etc., may discourage U. S. investments in Turkey. (Instructions to repeat to Constantinople.)	1210
May 29 (380)	*From the Special Mission at Lausanne (tel.)* French delegate's representations regarding points of French concessions touched by Chester project; his statement that France does not desire to thwart Chester concession, but will demand compensation from Turks and respect for prewar contracts. Request for instructions.	1212
June 1 (161)	*To the Special Mission at Lausanne (tel.)* Instructions to use points previously emphasized by Department if concession claims are brought up in conference; also to avoid direct offer of arbitration and to stress U. S. desire for fair play and reciprocal regard for valid rights.	1214

TURKEY

GRANT OF A CONCESSION TO THE OTTOMAN-AMERICAN DEVELOPMENT COMPANY, ETC.—Continued

Date and number	Subject	Page
1923		
July 25	*From the Ottoman-American Development Company* Copies of: (1) Preliminary agreement between Turkish Government and company regarding Eastern Anatolian Ry., (2) definitive convention, (3) supplementary contract, (4) certified translation of law ratifying Chester concession, and (5) note of confirmation from Turkish Minister of Public Works to Messrs. Clayton-Kennedy and Chester (texts printed); and several other documents.	1215
Aug. 23 (217)	*From the High Commissioner at Constantinople (tel.)* Turkish concern over inactivity of Ottoman-American Development Co.; virtual annulment of agricultural concession and probability that French will obtain it. Inquiries as to latest developments in company's affairs.	1241
Sept. 17 (169)	*To the High Commissioner at Constantinople (tel.)* Attempt of Clayton-Kennedy to secure extension of option on Samsun-Sivas railway. Present confused status of Ottoman-American Development Co. Instructions to avoid giving impression that company is regarded by United States as substantially American.	1242
Oct. 3 (184)	*To the High Commissioner at Constantinople (tel.)* Belated attempt on part of Americans to take control of Chester concession, requesting Department to secure extension of option; Department's reply assuring appropriate action upon receiving satisfactory evidence that substantial American investment is involved. Instructions to report Turkish attitude and date contract expires.	1243
Oct. 8 (264)	*From the High Commissioner at Constantinople (tel.)* Turkey's friendly attitude toward concession and probable willingness to extend option if convinced of sound financial backing of company. Clayton-Kennedy's proposal of 3 months' extension of option and certain changes in contract, offering immediate deposit of funds and list of subscribers. Participation of Cromwell in negotiations upon withdrawal of Chester group.	1244
Oct. 15 (269)	*From the High Commissioner at Constantinople (tel.)* Turkey's acceptance of proposed changes in definitive agreement and offer to Clayton-Kennedy of choice of two lines of action, namely, deposit of 100,000 Turkish pounds to insure extension of time or a beginning of work on small scale within 30 days.	1246
Oct. 27 (283)	*From the High Commissioner at Constantinople (tel.)* Telegram from Barnes, at Angora (substance printed) predicting loss of U. S. prestige if concession fails; Commissioner's view that Chester fiasco would seriously weaken Turkish Government; his inquiry whether Department can exercise pressure to put in order chaotic affairs of Ottoman-American Development Co.	1246

TURKEY

GRANT OF A CONCESSION TO THE OTTOMAN-AMERICAN DEVELOPMENT COMPANY, ETC.—Continued

Date and number	Subject	Page
1923		
Oct. 29 (201)	*To the High Commissioner at Constantinople (tel.)* Information that Department cannot direct or control affairs of U. S. concession seekers, but must limit itself to appropriate diplomatic support of genuine American enterprise. View that Turkish Cabinet, rather than United States, will lose prestige if project fails.	1248
Nov. 6 (292)	*From the High Commissioner at Constantinople (tel.)* Clayton-Kennedy's instructions to his representative, Soubhi Bey, to begin work on Samsun-Sivas line with formal ceremonies and to obtain *procès-verbal* stating work has begun; and promise to telegraph necessary funds. Failure of funds to arrive and difficulty of Soubhi Bey in raising money for traveling expenses of technical staff, etc.	1249
Nov. 10 (296)	*From the High Commissioner at Constantinople (tel.)* Report that Turkish Government declines to accept company's contention that work has begun on Samsun-Sivas line in accordance with contract. Grant of extension of time for presentation of evidence of sufficient capital to begin serious work.	1250
Nov. 12 (209)	*To the High Commissioner at Constantinople (tel.)* Information that no American company or group is interested in advancing funds to Ottoman-American Development Co. Chester's statements indicating failure of project.	1251
Dec. 21 (335)	*From the High Commissioner at Constantinople (tel.)* Notification by Turkish Minister of Public Works to company's representative that concession has been annulled.	1251

VENEZUELA

ACQUIESCENCE BY THE UNITED STATES IN THE RATIFICATION BY VENEZUELA OF THE SPANISH TEXT ONLY OF THE EXTRADITION TREATY SIGNED ON JANUARY 19 AND 21, 1922

1923		
Apr. 17 (330)	*From the Minister in Venezuela* Report of exchange of ratifications of extradition treaty between the United States and Venezuela and additional article thereto, April 14. Transmittal of Spanish text supplied by Venezuela and signed English original of protocol of exchange.	1253
May 29 (802)	*To the Minister in Venezuela* Return of Venezuelan instrument of ratification with instructions to obtain in substitution an instrument incorporating the English as well as the Spanish text of the treaty and additional article.	1253
June 11 (381)	*From the Minister in Venezuela* Report that Venezuelan custom requires text of ratification to be given in Spanish only; representations by Minister in accordance with Department's instructions.	1254

VENEZUELA

ACQUIESCENCE BY THE UNITED STATES IN THE RATIFICATION BY VENEZUELA OF THE SPANISH TEXT ONLY OF THE EXTRADITION TREATY SIGNED ON JANUARY 19 AND 21, 1922—Continued

Date and number	Subject	Page
1923		
July 18 (417)	*From the Minister in Venezuela* Memorandum by Foreign Ministry (text printed) proposing that English text be copied below ratification and certified by Foreign Minister. Note to Foreign Minister, June 20 (text printed) requesting complete instrument of ratification incorporating both English and Spanish texts.	1255
Sept. 27 (487)	*From the Minister in Venezuela* Foreign Minister's statement that his Government can do nothing further regarding inclusion of English text in instrument of ratification.	1257
Oct. 18 (820)	*To the Minister in Venezuela* Acceptance of Venezuelan suggestion to copy and certify English text of instrument of ratification; instructions to obtain same.	1258
Dec. 14 (591)	*From the Minister in Venezuela* Transmittal of Venezuelan instrument of ratification with English text appropriately certified; also signed English original of protocol of exchange.	1258

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FRANCE

RESUMPTION OF NEGOTIATIONS TO ENSURE BY TREATY THE RIGHTS OF THE UNITED STATES IN SYRIA AND THE LEBANON[1]

890d.01/155b

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, *September 29, 1923.*

SIR: In a publication of the "League of Nations" dated Geneva, August 27, 1923, and entitled "Supplementary Report to the Fourth Assembly of the League on the Work of the Council, on the Work of the Secretariat and on the Measures taken to execute the Decisions of the Assembly," the Department has noted on page 27 in a report of the third session of the Permanent Mandates Commission, the following statement:

"The Commission did not consider it desirable to examine the report on the administration of Palestine communicated to it by the British Government, since the Commission had been informed that the Palestine mandate would not enter definitely into force until the French and Italian Governments had notified the President of the Council of the League of their agreement on certain special points affecting Syria."

In view of the fact that the Department has not recently received any information with regard to the progress of the negotiations between the French and the Italian Governments with regard to Syria, it is desired that, without making any direct inquiry, you discreetly investigate and report any available information on this subject. A similar instruction is being sent to the Embassies at London and Rome and to the Consulates at Beirut and Jerusalem.

I am [etc.]

For the Secretary of State:
LELAND HARRISON

890d.01/156

The Chargé in France (Whitehouse) to the Secretary of State

No. 3583 PARIS, *October 12, 1923.*
[Received October 20.]

SIR: In reply to your instruction of September 29, 1923, I have the honor to report that I am now informed by the French Foreign

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[1] Continued from *Foreign Relations*, 1922, vol. II, pp. 117–134.

Office that an agreement has been reached between the French and Italian Governments as to the French mandate in Syria.

On July 24, 1922, the Council of the League of Nations rendered a decision that the mandates for Syria and Palestine should automatically come into force when the French and Italians reached an agreement. This agreement was notified to the Council of the League on September 29th last, and the Syrian and Palestinian mandates may therefore be considered in force from that date.

No publicity seems to have been given to this coming into force of the mandate. In fact the text of the Franco-Italian agreement, which consists of an exchange of notes, has not yet been communicated to the Council of the League: the notification of September 29, 1923, being made verbally by the French and Italian representatives. I have been promised a copy of the agreement as soon as it is communicated to the League.

In view of the above, I respectfully request the Department's instructions in regard to reopening the discussion of our Convention with the French relative to the Syrian mandate. As the Department will remember, the text was practically agreed on, the only issue under discussion being the date of its coming into force.

I have [etc.] SHELDON WHITEHOUSE

711.90 d 3/17 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *October 23, 1923—3 p.m.*

391. Your 3583 October 12.

Consul Beirut telegraphs as follows, under date of October 18, 5 p.m.

"I have been notified by the French High Commissioner that since the League of Nations confirmed the French mandate in Syria and the Lebanon on September 29, 1923, the following ordinance will go into effect on November 1, 1923.

Under article five of the mandate as drawn up on July 24, 1922, all privileges and immunities of foreigners, including consular jurisdiction and protection as they were formerly applied in the Ottoman Empire, by virtue of the capitulations and custom will be abolished on November 1st, 1923.

However, Consular courts will function until December 31st, 1923. After January 1st, 1924, the judicial organization provided for in article six of the mandate will go into effect.

High Commissioner promises suitable prisons for foreigners until Syrian prisons are modernized and has given instruction that the new regime be tactfully inaugurated, so as to create least possible friction. Please instruct me by telegraph what attitude the Department wishes me to assume."

You should take an early opportunity to inform the French Foreign Office, either orally or in writing, as you may consider most expedient, that Department is prepared to resume the negotiations with the French Government for the conclusion of a Treaty with France with regard to the Syrian mandate as outlined in Department's communication to French Embassy of July 12, 1922 [2] (see Department's written instruction No. 372 of July 14, 1922 [3]). Prior to the conclusion of such a treaty, however, this Government could not acquiesce in modification of existing rights of its nationals in Syria.

You may further add that this Government would naturally desire to be informed of any agreements which France may have entered into with any Third Power with regard to Syria and in the light of such agreements would reserve the right to suggest modifications in the Treaty draft of July 12, 1922 which was submitted on the assumption that the Mandate as approved by the League of Nations fully defined the position in Syria of all the States members of the League.

Department's records do not clearly indicate whether French Foreign Office made written reply to Department's note of July 12.

See your 288, July 17, 1922.[4]

Report by telegraph result of your representations.

HUGHES

711.90 d 3/18 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *November 2, 1923—3 p.m.*

406. Department's 391, October 23, 3 p.m.

Following received from Consul at Beirut:

"French High Commissioner has accepted Department's attitude toward capitulatory regime and has ordered that new regulations shall not affect American interests and nationals until satisfactory treaty between the United States and France has been made."

You may orally inform French Foreign Office that the Department is gratified at attitude of French High Commissioner and, appreciating the desire of the French Government to regularize its status in Syria at the earliest possible moment, would be glad to facilitate in any practicable way an early conclusion of an agreement with regard to Syria.

Report action taken on Department's 391.

HUGHES

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[2] *Foreign Relations*, 1922, vol. II, p. 127.
[3] Not printed.
[4] *Foreign Relations*, 1922, vol. II, p. 133.

890d.01/164

The Ambassador in France (Herrick) to the Secretary of State

No. 3645 PARIS, *November 7, 1923.*
[Received November 21.]

SIR: In accordance with your telegram No. 391, of October 23, 1923, 3 p.m., on October 24th the Embassy informed the French Foreign Office in writing that the United States Government was prepared to resume negotiations for the conclusion of a convention relative to the Mandate for Syria and the Lebanon.

I am now in receipt of a reply from the Foreign Office dated November 2, 1923, copy and translation of which are enclosed. In this note the Department will observe that the French Government communicates the substance of its assurances to the Italian Government.

I learned from a private source that the only reason why the texts of the notes exchanged between the Foreign Office and the Italian Ambassador in Paris were not communicated to us, is because mention is made therein of the Tripartite agreement.[5] The mention of the Tripartite agreement is made in the last sentence of Paragraph 3 of Mr. Poincaré's note to this Embassy. The clause in question was read to me and it would in substance be the same if the phrase "under the Tripartite agreement" was substituted for the words "in the settlement of the peace in the Orient".

I likewise enclose herewith the text in English and French of the Convention as agreed upon in July 1922,[6] with the slight modifications rendered necessary by the fact that the Mandate is now in force. If this text is satisfactory to the Department, full powers can be telegraphed me and the Convention signed.

I have [etc.] MYRON T. HERRICK

[Enclosure—Translation [7]]

The French Minister for Foreign Affairs (Poincaré) to the American Ambassador (Herrick)

MR. AMBASSADOR: In a letter dated October 24th last, the Chargé d'Affaires of the United States was good enough to inform me that the Federal Government was disposed to continue negotiations with the French Government for the signature of a convention relative to the French mandate for Syria and the Lebanon. In fact an agreement

[5] Agreement, between Great Britain, France, and Italy, signed at Sèvres, Aug. 10, 1920, relating to spheres of special interests in Anatolia; *British and Foreign State Papers*, 1920, vol. CXIII, p. 797.
[6] See *Foreign Relations*, 1922, vol. II, p. 131.
[7] File translation revised.

was reached on July 13, 1922, on a draft convention the signature of which was deferred until such time as a peace treaty should be signed between the Allied Powers and Turkey and the mandate for Syria and the Lebanon should come into force. The signature of peace with Turkey on July 24, 1923,[7a] and the coming into force of a mandate, the terms of which were approved by the Federal Government in 1922, now permit the conclusion of the convention prepared between the United States and France.

On the other hand, the Federal Government has expressed the desire to take into account, in this convention, if necessary, any agreements which may have been reached since 1922 between the French Government and other Governments regarding Syria.

I have the honor to inform Your Excellency that the French Government has limited itself in this respect to giving the Italian Government the assurances which the latter has requested in regard to the interests with which it is charged. The French Government has stated that it would consider favorably the establishment between Syria, on the one hand, and the Island of Rhodes and other territories over which Italy has rights in the Eastern Mediterranean, on the other, of a system of coastwise shipping, similar to that which through proximity may grow up between Syria and Palestine. It has also confirmed, in conformity moreover with the principles of the mandate, that the advantages obtained by Italy in the settlement of peace in the Orient did not deprive her of the benefit of the economic equality ensured in Syria to all members of the League of Nations.

Consequently, the following explanations have been furnished the Italian Government:

"Within the limit of its powers and its obligations as a mandatory power, the French Government will apply itself to prevent any provision of the legislation of Syria and the Lebanon from aiming to impose upon aliens in Syria or the Lebanon a change of nationality, with the exception of any change resulting from marriage.

The object of article XI of the mandate for Syria is not to exclude the participation of Italian enterprise in the public works and services, and works of public utility, nor in the development of the natural resources of the country when the administration does not proceed with them directly itself. In case of such participation, the French Government would be disposed to consider favorably the conclusion of an agreement with the Royal Government to regulate the conditions of Italian labor which would as a consequence be admitted into Syria.

The French Government gives the Italian Government the assurance that the definitive judicial organization in Syria and the Lebanon

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[7a] Great Britain, Cmd. 1929, Treaty Series No. 16 (1923): *Treaty of Peace with Turkey, and Other Instruments, Signed at Lausanne on July 24, 1923*, etc.

will provide that the tribunals to which aliens will be subject will be composed of a majority of French judges, except in the case of suits of little importance, against the judgments in which, however, appeal may be brought before courts which have a majority of French judges.

The French Government gives to the Italian Government the assurance that the object of article X of the mandate for Syria and the Lebanon will not be to prevent the opening of new Italian schools or to limit the right of these schools to receive pupils from other communities. The supervision of the mandate will be limited strictly to what is required by public order and good administration. It adds that there is no intention of authorizing any arbitrary intervention in the internal affairs of any faith.

The French Government assures the Royal Government that Italian schools, orphanages, asylums, hospitals, and dispensaries will enjoy in Syria and the Lebanon free customs entry, with the exception of those institutions which carry on agricultural or industrial enterprises having a commercial character.

Goods amounting to a sum which is to be determined, imported for the personal use of the members of such institutions, will be admitted free of customs duty.

It is understood that the present advantages will only be granted in the measure that, and as long as, the conditions attached to them are strictly observed in letter and in spirit".

The foregoing assurances being in conformity with the provisions of the mandate and their benefit being assured to the United States of America as to all the members of the League of Nations by article 2 of the draft Franco-American convention, and by article 11 of the mandate, I am pleased to believe, Mr. Ambassador, that the Federal Government will deem it possible to proceed shortly with the negotiations for the conclusion of a convention, the terms of which I am happy to have established with Your Excellency.

Kindly accept [etc.] POINCARÉ

PARIS, *November 2, 1923.*

890d.01/164 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *December 17, 1923—8 p.m.*

466. Your written despatch 3645, November 7.

Department desires you to communicate with the Foreign Office in the sense of the following: [8]

"My Government has been gratified to note from your communication of November 2d that it is the desire of the French Government

[8] The note, with slight verbal changes, was presented Dec. 18.

to proceed promptly to the conclusion of a convention with respect to the mandate for Syria and the Lebanon, and considers that the communication which you were good enough to address to me under date of November 2d and the draft convention enclosed with your communication furnish a satisfactory basis for such action.

Note has been taken of the statement in your communication of November 2d that the benefits of the agreement which your government has reached with Italy, as therein outlined, would be assured to the United States of America. I assume that your Government would also be prepared to accord to the United States and to American nationals most-favored-nation treatment not only as regards the recent agreement with Italy but with respect to any other agreements relating to Syria and the Lebanon which might be concluded by the mandatory power with other governments.

On this understanding, which my Government will be happy to have the French Government confirm, it will be possible to proceed to the signing of the Convention with certain modifications stated below.

Previous drafts of the proposed Convention with regard to Syria and the Lebanon contain no provision for the extension to the mandate territory of treaties of extradition between the United States and France. You will recall that such provision is made in the conventions relating to Togoland and the Cameroons [9] and my Government considers that it would be desirable to add an article to the proposed convention similar to Article 6 of those conventions. Further, it is suggested for the consideration of the French Government that it would be desirable to provide that the consular convention between the United States and France should be applicable to Syria and the Lebanon.

In case the French Government is in agreement on the above mentioned points, the following article, to be numbered Article 7 (the present Article 7 to be Article 8), might be inserted: 'The provisions of all extradition or consular treaties or conventions which may be in force between the United States and France shall apply to the mandated territory.'

The French Government will undoubtedly appreciate the importance of safeguarding the position of consular officers particularly in a territory such as Syria where capitulatory rights have long been enjoyed and my Government is confident that France, as the mandatory power in Syria, will take the necessary measures to effect this. It would be particularly gratifying to my Government if in addition to extending to Syria and the Lebanon the Consular Convention, the French Government should see its way to indicate its intention to assure the special immunities and privileges of consular officers in this mandate territory.

I am further instructed to inform Your Excellency that my Government is prepared to send me full powers for the prompt signature of the Convention in the form in which it was communicated with your note of November 2d with the addition of the article suggested above."

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[9] *Post*, p. 8.

Also point out orally to the French Foreign Office the following minor points which appear to involve clerical errors in the draft of the Convention: (1) First paragraph of Preamble, French text "l'Empire ottoman" should probably read "la Turquie." (2) Third paragraph of Preamble after terms of Mandate, English text, phrase "with respect to" should read "with regard to." (3) Last sentence present Article VII, English text, "the present Convention" should read "it".

HUGHES

CONVENTIONS BETWEEN THE UNITED STATES AND FRANCE RELATING TO AMERICAN RIGHTS IN TOGOLAND AND THE CAMEROONS, SIGNED FEBRUARY 13, 1923 [10]

862P.01/22

The Ambassador in France (Herrick) to the Secretary of State

No. 2857 PARIS, *February 13, 1923.*
[Received February 28.]

SIR: I have the honor to transmit under separate cover the original texts of the Franco-American Conventions regarding the French Mandates over Togoland [11] and the Cameroons which were signed to-day by M. Poincaré and myself.

I have [etc.] MYRON T. HERRICK

Treaty Series No. 690

Convention between the United States of America and France, Signed at Paris, February 13, 1923 [12]

THE PRESIDENT OF THE UNITED STATES OF AMERICA AND THE PRESIDENT OF THE FRENCH REPUBLIC,

Whereas by Article 119 of the Treaty of Peace signed at Versailles the 28th of June, 1919, Germany renounced in favor of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions; and

Whereas by Article 22 of the same instrument it was provided that certain territories which, as a result of the war, had ceased to be

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[10] For previous correspondence, see *Foreign Relations*, 1922, vol. II, pp. 134 ff.

[11] Not printed; the convention relating to Togoland is the same, *mutatis mutandis*, as that relating to the Cameroons, and was signed, ratified, and proclaimed on the same dates.

[12] In English and French; French text not printed. Ratification advised by the Senate, Mar. 3, 1924; ratified by the President, Mar. 14, 1924; ratified by France, Apr. 24, 1924; ratifications exchanged at Paris, June 3, 1924; proclaimed by the President, July 3, 1924.

under the sovereignty of the States which formerly governed them, should be placed under the mandate of another Power, and that the terms of the mandate should be explicitly defined in each case by the Council of the League of Nations; and

Whereas the benefits accruing under the aforesaid Article 119 of the Treaty of Versailles were confirmed to the United States by the Treaty between the United States and Germany, signed August 25, 1921, to restore friendly relations between the two nations; and

Whereas four of the Principal Allied and Associated Powers, to wit: the British Empire, France, Italy and Japan, agreed that France should exercise the mandate for part of the former German Colony of the Cameroons; and

Whereas the terms of the said mandate have been defined by the Council of the League of Nations as follows:

Article 1.—The territory for which a mandate is conferred upon France comprises that part of the Cameroons which lies to the east of the line laid down in the Declaration signed on July 10th, 1919, of which copy is annexed hereto.[13]

This line may, however, be slightly modified by mutual agreement between His Britannic Majesty's Government and the Government of the French Republic where an examination of the localities shows that it is undesirable, either in the interest of the inhabitants or by reason of any inaccuracies in the map Moisel 1/300,000,[14] annexed to the Declaration, to adhere strictly to the line laid down therein.

The delimitation on the spot of this line shall be carried out in accordance with the provisions of the said Declaration.

The final report of the Mixed Commission shall give the exact description of the boundary line as traced on the spot; maps signed by the Commissioners shall be annexed to the report. This report with its annexes shall be drawn up in triplicate; one of these shall be deposited in the archives of the League of Nations, one shall be kept by the Government of the Republic and one by His Britannic Majesty's Government.

Article 2.—The Mandatory shall be responsible for the peace, order and good government of the territory and for the promotion to the utmost of the material and moral well-being and the social progress of its inhabitants.

Article 3.—The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organize any native military force except for local police purposes and for the defence of the territory.

It is understood, however, that the troops thus raised may, in the event of general war, be utilized to repel an attack or for defence of the territory outside that subject to the mandate.

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[13] Not printed; the Franco-British declarations of July 10, 1919, relating to the Cameroons and Togoland are published in *British and Foreign State Papers*, 1923, pt. II, vol. CXVIII, pp. 887 and 893.

[14] In the Franco-British declaration relating to Togoland the reference is to "the map, Sprigade 1 : 200,000."

Article 4.—The Mandatory:

1° Shall provide for the eventual emancipation of all slaves, and for as speedy an elimination of domestic and other slavery as social conditions will allow;

2° Shall suppress all forms of slave trade;

3° Shall prohibit all forms of forced or compulsory labor, except for essential public works and services, and then only in return for adequate remuneration;

4° Shall protect the natives from measures of fraud and force by the careful supervision of labor contracts and the recruiting of labor;

5° Shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

Article 5.—In the framing of laws relating to the holding or transference of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favor of non-natives may be created except with the same consent.

The Mandatory shall promulgate strict regulations against usury.

Article 6.—The mandatory shall secure to all nationals of States Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect of entry into and residence in the territory, the protection afforded to their person and property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of States Members of the League of Nations, on the same footing as his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organize essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States Members of the League of Nations, but on such conditions as will maintain intact the authority of the local Government.

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under mandate and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources, either directly by the State or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources for the benefit of the Mandatory or his nationals, directly or indirectly, nor any preferential advantage which shall be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

The rights conferred by this article extend equally to companies and associations organized in accordance with the law of any of the

Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

Article 7.—The Mandatory shall ensure in the territory complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; missionaries who are nationals of States Members of the League of Nations shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control.

Article 8.—The Mandatory shall apply to the territory any general international conventions applicable to his contiguous territory.

Article 9.—The Mandatory shall have full powers of administration and legislation in the area subject of the mandate. This area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the above provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory subject to the mandate with such modifications as may be required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent territories under his sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this mandate.

Article 10.—The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council. This report shall contain full information concerning the measures taken to apply the provisions of this mandate.

Article 11.—The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

Article 12.—The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

Whereas the United States of America, by participating in the war against Germany, contributed to her defeat and to the renunciation of her rights and titles over her oversea possessions, but has not ratified the Treaty of Versailles; and

Whereas the Government of the United States and the Government of the French Republic desire to reach a definite understanding with regard to the rights of the two Governments and their respective nationals in the aforesaid former German Colony of the Cameroons;

Have decided to conclude a convention to this effect, and have nominated as their respective plenipotentiaries, that is to say:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

His Excellency Mr. Myron T. Herrick, Ambassador Extraordinary and Plenipotentiary of the United States of America at Paris;

AND THE PRESIDENT OF THE FRENCH REPUBLIC:

M. Raymond Poincaré, Senator, President of the Council, Minister of Foreign Affairs;

WHO, after communicating to each other their respective full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1

Subject to the provisions of the present convention, the United States consents to the administration by the Government of the French Republic, pursuant to the aforesaid mandate, of the former German territory, described in Article 1 of the mandate.

ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of Articles 2, 3, 4, 5, 6, 7, 8 and 9 of the mandate to Members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

ARTICLE 3

Vested American property rights in the mandated territory shall be respected and in no way impaired.

ARTICLE 4

A duplicate of the annual report to be made by the Mandatory under Article 10 of the mandate shall be furnished to the United States.

ARTICLE 5

Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate as recited above unless such modification shall have been assented to by the United States.

ARTICLE 6

The extradition treaties and conventions in force between the United States and France shall apply to the mandated territory.

ARTICLE 7

The present convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties.

The ratifications shall be exchanged in Paris as soon as practicable. It shall take effect on the date of the exchange of ratifications.

In Witness Whereof the respective Plenipotentiaries have signed this Convention and have affixed thereto their seals.

Done in duplicate at Paris, the 13th day of February, in the year 1923.

[seal] Myron T. Herrick
[seal] R. Poincaré

AGREEMENT BETWEEN THE UNITED STATES AND FRANCE, SIGNED JULY 19, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF FEBRUARY 10, 1908 [16]

711.5112/71a

The Secretary of State to the French Ambassador (Jusserand)

Washington, *June 25, 1923.*

My Dear Mr. Ambassador: In accordance with your suggestion yesterday,[17] I take pleasure in sending you a draft of a note,[18] similar to that handed to the British Ambassador in connection with the signing, on Saturday last, of the agreement for the renewal of the Arbitration Treaty between the United States and Great Britain.[19] The British Ambassador at the same time handed me a note stating that under instructions from His Majesty's Principal Secretary of State for Foreign Affairs he confirmed my understanding of His Majesty's Government's attitude on the point stated in my note and saying that if the Senate approved the President's proposal, His Majesty's Government would be prepared to consider with the United States Government the conclusion of an agreement for the reference to the Permanent Court of International Justice of disputes mentioned in the Arbitration Convention.

I am [etc.] Charles E. Hughes

711.5112/72a

The Secretary of State to the French Ambassador (Jusserand)

Washington, *June 25, 1923.*

My Dear Mr. Ambassador: Permit me to enclose in further response to your suggestion of yesterday, a draft of a proposed agreement for the renewal of the Arbitration Treaty with France.[20] This

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[16] For text of convention of 1908, see *Foreign Relations*, 1908, p. 331.
[17] No record of this conversation found in the Department files.
[18] Not printed.
[19] *Post*, p. 315.
[20] Enclosure not printed.

is similar to the agreement which was signed on Saturday with Great Britain when the notes to which I referred in my first letter today were exchanged.

Very sincerely yours,

CHARLES E. HUGHES

711.5112/69

The French Ambassador (Jusserand) to the Secretary of State

WASHINGTON, *June 29, 1923.*

MY DEAR MR. SECRETARY: Referring to our conversations and to your two letters of June 25th, I beg to state that my Government has empowered me to renew with you our treaty of arbitration and to exchange with you the suggested notes.

The only change recommended is that, in the latter document, the words "providing for the reference of disputes mentioned in the convention to the Permanent court of International Justice", be replaced by others implying that such disputes "*could* be referred, etc."

It seems to my Government that, it would be better for both Governments to reserve to themselves a power of appreciation: for there may occur such cases when it might prove more expedient to have recourse to the suppler procedure of arbitration.

Believe me [etc.] JUSSERAND

711.5112/69

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, *June 30, 1923.*

MY DEAR MR. AMBASSADOR: I have received your note of June twenty-ninth, and beg to say that the change you suggest in the proposed note in connection with the renewal of the Arbitration Convention is entirely agreeable to me, as it is in accord with my intent. I suggest, therefore, following what I understand to be your wishes, that for the words in my proposed note "providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice," there should be substituted the following "under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice."

I shall be glad to have you send me a draft of the note which you propose to send in reply.

I am [etc.] CHARLES E. HUGHES

Treaty Series No. 679

Agreement between the United States of America and France, Signed at Washington, July 19, 1923 [21]

The Government of the United States of America and the Government of the French Republic, desiring to extend for another five years the period during which the arbitration convention concluded between them on February 10, 1908, and extended by the agreements concluded between the two Governments on February 13, 1913,[22] and February 27, 1918,[23] shall remain in force, have respectively authorized the undersigned, to wit: Charles Evans Hughes, Secretary of State of the United States, and J. J. Jusserand, Ambassador of the French Republic to the United States, to conclude the following agreement:

ARTICLE I

The Convention of Arbitration of February 10, 1908, between the Government of the United States of America and the Government of the French Republic, the duration of which by Article III thereof was fixed at a period of five years from the date of ratification, which period, by the agreement of February 13, 1913, between the two Governments was extended for five years from February 27, 1913, and was further extended by the agreement of February 27, 1918, between the two Governments, for a period of five years from February 27, 1918, is hereby extended and continued in force for the further period of five years from February 27, 1923.

ARTICLE II

The present agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the French Republic, in accordance with the Constitutional laws of France, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate in the English and French languages, at Washington, this 19th day of July, one thousand nine hundred and twenty-three.

CHARLES EVANS HUGHES [SEAL]
JUSSERAND [SEAL]

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[21] In English and French; French text not printed. Ratification advised by the Senate, Dec. 18, 1923; ratified by the President, Feb. 28, 1924; ratified by France, Feb. 2, 1924; ratifications exchanged at Washington, Mar. 3, 1924; proclaimed by the President, Mar. 4, 1924.

[22] *Foreign Relations*, 1913, p. 528.

[23] *Ibid.*, 1918, p. 428.

Treaty Series No. 679

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, *July 19, 1923.*

EXCELLENCY: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and France, February 10, 1908, and renewed from time to time, I have the honor, in pursuance of our informal conversations, to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague.[24] As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of the French Republic will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

Accept [etc.] CHARLES E. HUGHES

Treaty Series No. 679

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

WASHINGTON, *July 19, 1923.*

MR. SECRETARY OF STATE: Your Excellency was pleased, by your note dated this day, to suggest in connection with the renewal of the Arbitration Convention signed by France and the United States on February 10, 1908, and periodically renewed since, that the agreement of the two governments on the point specified as follows in your said note be placed on record.

Your Excellency's communication reads as follows:

"On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague. As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be

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[24] See vol. I, pp. 1 ff.

delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of the French Republic will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice."

I have the honor to inform Your Excellency that my Government, whose instructions have come to hand, entirely agrees with Your Excellency in this matter.

Be pleased to accept [etc.] JUSSERAND

PROTEST BY THE UNITED STATES AGAINST THE GRANT OF EXCLUSIVE PRIVILEGES TO FRENCH ARCHEOLOGISTS FOR RESEARCH IN ALBANIA AND AFGHANISTAN

875.927/–

The Minister in Albania (Grant-Smith) to the Secretary of State

No. 11 TIRANA, *January 5, 1923.*

[Received January 30.]

SIR: I have the honor to report that upon applying to the Ministry of Foreign Affairs for a copy of the Concession reported to have been accorded to M. Justin Godart for Archeological research in Albania, I was informed, after some days delay, that, unfortunately, they found themselves unable to comply with my request because the concession had not as yet been reported from the Parliamentary Committee to which it had been referred and, consequently, the Ministry were not at liberty to make known its terms before it was come before the National Assembly at its next session.

I observed that since secrecy was thought necessary I found myself obliged to infer that the terms of the instrument must contain certain provisions inimical to the interests of Governments other than those of Albania and France; that it would be preferable for the Albanian Government to eschew secret diplomacy as otherwise they would come to be regarded with suspicion, with all the disadvantages that implied, and suggested the advisability of making it possible for me to become acquainted with the text of the concession in question. I remarked that it would be a pity to shut out American institutions of learning from the possibility of participating in such researches since once they became interested in the country, even in a small way, they would tend to attract the attention of others to its various advantages. Confidentially I learned that the French scheme contemplates a monopoly for archeological research throughout the country.

I have [etc.] U. GRANT-SMITH

875.927/–

The Secretary of State to the Minister in Albania (Grant-Smith)

No. 17 WASHINGTON, *February 19, 1923.*

SIR: The Department has received your despatch No. 11 of January 5th relating to a concession which is understood to have been granted to France for archeological research in Albania. You indicate that you have received confidential information that the French plan contemplates a monopoly for archeological research throughout the country.

The Department approves the attitude you have taken in your informal conversations with Albanian officials and is desirous of obtaining any further information in regard to the exact nature of the concession in question.

For your confidential information it may be added that such monopolistic privileges in respect to Persia are understood to have been secured by France in 1895 under a special convention, and that the Department has recently received information which would indicate that France was also endeavoring to obtain a monopolistic concession for archeological research in Afghanistan.

In view of the important part which American institutions of learning have taken in archeological research work in various countries of the world it is the Department's desire to maintain the principle of the "Open Door" for American institutions and you may appropriately indicate this to the Albanian Government.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

890h.927/1a

The Secretary of State to the Ambassador in France (Herrick)

No. 573 WASHINGTON, *February 19, 1923.*

SIR: The Department desires to bring to your attention the following passage from the *Pioneer Mail* (India) of November 17, 1922, reporting a news item from Peshawar dated November 10, 1922:

"It is reliably reported that a convention has been signed between Afghanistan and the French Archaeological Exploration Mission, a monopoly in this respect being secured to the Mission, together with certain preferential treatment in regard to any metals they may discover in the course of their work."

The Department also learns from reliable private sources that there appears reasonable ground for the belief that the above report may

be substantially correct, at least in so far as it relates to the desire of the French to obtain exclusive privileges for archaeological exploration in Afghanistan, and that Professor Auguste Foucher, of the Sorbonne, is now at Kabul on behalf of the French Foreign Office.

You are instructed to make discreet and informal inquiries on this subject and to report fully as to the attitude of the French Government.

The Department may add, for your confidential information, that the French are already understood to possess exclusive rights to carry on archaeological excavations in Persia, and are now endeavoring to secure similar privileges in Albania.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

890h.927/3

The Ambassador in France (Herrick) to the Secretary of State

No. 2928 PARIS, *March 7, 1923.*
[Received March 20.]

SIR: In reply to your instruction No. 573 of February 19th last, I have the honor to report that I learn at the Foreign Office that the Afghan Government has granted a monopoly to Professor Foucher for archaeological exploration in that country.

M. de Peretti informed me that the French Government was opposed to monopolies of this character and had so informed Professor Foucher who had been acting entirely on his own account. Professor Foucher's excuse was that the concession had been drawn up in that form by the Afghan Government and that he would have had no chance to obtain any archaeological rights at all if he had asked for any alterations. The British Government has already made representations to the Foreign Office, but I was assured that there was no desire on the part of Professor Foucher to profit by his monopoly and that if any American organization desired to work in Afghanistan, it would be easy for it to reach an agreement with Professor Foucher.

No mention was made of metal discoveries; however I will continue my enquiries and will report further as soon as any supplementary information either in regard to Afghanistan, Persia or Albania is obtained.

I have [etc.]

For the Ambassador:
SHELDON WHITEHOUSE
Counselor of Embassy

890h.927/3

The Secretary of State to the Ambassador in France (Herrick)

No. 639 WASHINGTON, *April 28, 1923.*

SIR: The Department refers to its instruction No. 573 of February 19 and to your reply thereto, No. 2928 of March 7, in which you confirm the report that a monopoly for archaeological exploration in Afghanistan has been granted to Professor Auguste Foucher by the Afghan Government.

In view of the statement of the French Government, as reported by you, that it was opposed to monopolies of this character and had so informed Professor Foucher, the Department desires you to bring this matter to the attention of the French Foreign Office in a more formal manner, and to state that the American Government is likewise opposed to the granting of privileges of this nature to the nationals of one country calculated to exclude the nationals of other countries. The Department feels that to allow this would be contrary to the true interests of international scholarship and research, and it therefore considers it essential that American individuals or institutions, in case at some future time they desire to enter the field with the consent of the Afghan authorities, should enjoy an equality of opportunity with the nationals of any other country.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

890h.927/8

The Ambassador in France (Herrick) to the Secretary of State

[Extract]

No. 3329 PARIS, *July 27, 1923.*
[Received August 15.]

SIR:

. . . . . .

Relative to the Department's Instruction No. 639 of April 28, 1923, I beg to inform you that, when the attitude of the United States Government was recently presented to the Foreign Office, as reported in my despatch No. 2928 of March 7, 1923, it was once more emphasized that no American archaeologist would have any difficulty in coming to an arrangement with Professor Foucher to dig in any part of the country desired. As previously reported, it appears that Professor Foucher did not desire an exclusive concession from the Afghan Government, but that the agreement was drawn up in that form.

I have [etc.] MYRON T. HERRICK

875.927/2

The Chargé in Albania (Swift) to the Secretary of State

No. 152 TIRANA, *September 9, 1923.*

[Received October 3.]

SIR: I have the honor to inform the Department that a concession for making archeological excavations in Albania was signed on August 28, 1923, by R. Mitrovica, Minister of Public Instruction, for the Albanian Government, and by Monsieur J. Beguin Billecocq, the French Chargé d'Affaires, for the French Government. The concession must, however, be ratified by the Albanian Parliament before it becomes effective.[25]

The contract has been read in Parliament and is now being examined by a special committee formed for the purpose. There has been a certain amount of opposition to the ratification of the contract although Mr. Hunger, the Financial Adviser, has advocated its acceptance by the Government. Members of the opposition have proposed that Dr. Patch, the Director of the Government Museum, submit his views as to the advisability of the ratification of the contract.

According to the terms of the concession, the French Government is to have the exclusive privilege of making archeological explorations over the greater part of the Prefecture of Scutari, approximately half of the Prefecture of Durazzo, and about one-fourth of the Prefecture of Berat. All expenses in connection with the explorations are to be borne by the French Government. Albanian scientists are to be permitted to aid in supervising the work of exploration. Any articles of gold or silver that may be found shall become the property of the Albanian Government, although the French Government is to have the exclusive right to purchase articles which may be found at prices to be fixed by the Albanian Government, should the latter decide to part with them. The French Government is to be permitted to acquire duplicate articles of precious metal, sculpture, statues and inscriptions which may be discovered. The French Government, according to the contract, is not to be permitted to lease to any other government the concession for making archeological explorations, or to become associated with any other government in carrying out the terms of the contract.

The concession is to run for a period of thirty years and may be renewed by mutual agreement.

I have [etc.] W. MERRITT SWIFT

[25] The concession was ratified, with slight modifications, Sept. 22, 1923.

GERMANY

TREATY BETWEEN THE UNITED STATES AND GERMANY, SIGNED DECEMBER 8, 1923, REGARDING FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS

711.622/21a

The Secretary of State to the German Ambassador (Wiedfeldt)

WASHINGTON, *July 25, 1923.*

EXCELLENCY: Following conversations recently had with Your Excellency, I have the honor to inform you that this Government is cordially disposed to enter into negotiations with the German Government for the conclusion of a treaty of amity, commerce and consular rights. As appropriate to that end there is submitted to you herewith the draft of a proposed treaty of which the text is self-explanatory.[1]

You will observe from the preamble that the document embodies a treaty of friendship as well as of commerce and of consular rights. It is designed to promote the friendly intercourse between the peoples of the United States and Germany. Through the text submitted it is sought to lay the foundation for a comprehensive arrangement responsive to the modern and exacting requirements of important maritime states. To that end the several Articles are expressed in terms which definitely and clearly set forth the principles involved. It is sought by this means to avoid as far as possible danger of conflicting interpretations.

You will be interested in noting that Article VII makes full provision for the enjoyment of the most favored nation clause in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the Contracting Parties. It will be seen, moreover, that the most favored nation clause is applied to duties on imports and exports and to other charges, restrictions and prohibitions on goods imported and exported. The document in its present form may, of course, be subjected to minor changes by the United States in the course of negotiations.

In transmitting this treaty to Your Excellency, I am glad to confirm the understanding that negotiations are to be had at this capital.

Accept [etc.] CHARLES E. HUGHES

[1] Enclosure not printed.

711.622/28 : Telegram

The Acting Secretary of State to the Ambassador in Germany (Houghton)

WASHINGTON, *November 30, 1923—5 p.m.*

92. Merely for your information.

Your 192 November 1.[2] In some manner unknown to the Department a copy of the proposed German-American treaty has been furnished from Berlin to an organization calling itself Chamber of German-American Commerce, Inc., with an office in New York. This organization has given the text of the treaty full publicity which, naturally, creates a most unfavorable impression in the United States. The German Ambassador saw the Secretary on November 28 and expressed his great regret that the text had been made public. He said he believed there were only a few points of difference between the American and German wishes with regard to the treaty, and that possibly an early signature might be arranged. The Secretary said that it would help matters if the treaty could be signed at once; that we were in an embarrassing position, as we did not wish to be uncandid in answering inquiries of which there are many in consequence of the premature publication and that it might be necessary for this reason to withdraw the treaty. The Ambassador will come to the Department today to go over the few points which have to be considered with the Solicitor of the Department, and if an agreement can be reached, he will cable his Government for authority to sign immediately. If it proves possible to agree fully, the Ambassador will be requested to ask his Government to give you immediately a copy of his authorization to sign on behalf of the German Government and you should immediately cable to the Department the text of this authorization.

PHILLIPS

711.622/29 : Telegram

The Ambassador in Germany (Houghton) to the Secretary of State

BERLIN, *December 2, 1923—11 a.m.*

[Received 2 p.m.]

216. Your 91 [*92*], November 30, 5 p.m. Herr von Schubert called on me last evening and showed me full power to be sent Wiedfeldt. Translation of text is as follows:

"Doctor Otto Wiedfeldt, Ambassador Extraordinary and Minister Plenipotentiary at Washington, is hereby authorized to conduct negotiations with the Government of the United States of America, in the

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[2] Not printed.

name of the German Reich, relating to a treaty of amity, commerce and consular matters and to sign the treaty, subject to ratification. Berlin, December 1, 1923. Signed, Ebert, President of the Reich. Signed, Stresemann. (Seal)."

[Paraphrase.] Schubert told me that the premature publication of the treaty greatly distressed his Government. The treaty had been handled by the Foreign Office in the same manner as has been used for fifty years and never before had its confidence been betrayed. . . . As the treaty would serve as a model for other similar treaties the German Government had hoped to have certain minor changes made; but, considering the unfortunate circumstances, it was now willing to sign without delaying further. The German Ambassador at Washington had already been given telegraphic instructions to this effect. [End paraphrase.]

HOUGHTON

711.622/40

The Counselor of the German Embassy (Von Lewinski) to the Solicitor for the Department of State (Hyde)

WASHINGTON, *December 3, 1923.*

MY DEAR MR. HYDE: Enclosed I beg to transmit the draft of a Memorandum containing the explanations, which you were kind enough to give us, as regards to the Treaty of friendship and commerce, for your kind examination and consent.

I should further like to suggest that the text of the Treaty might be amended in the following points:

In Art. XV b par. 2 the word "customs" between "said" and "officials" should be erased.

In Art. XXIII par. 2 the words "or misdemeanours" should be inserted after the word "crimes".

It might further be useful, to make the Preamble conform with the heading of the Treaty by inserting after the word "Commerce" the words "and Consular Rights".

I am [etc.] KARL VON LEWINSKI

[Enclosure]

Memorandum Regarding the Conference Held in the State Department between Messrs. Castle, Hyde, McClure, Metzger, and Barnes, on behalf of the United States, and Messrs. Wiedfeldt and Von Lewinski, on behalf of Germany, December 1, 1923

The Draft of a Treaty of Friendship and Commerce was discussed Article by Article.

Article I

(1) It was explained that the sentence concluding paragraph 1 ("submitting themselves," etc.) refers to the entire contents of Article I, par. 1.

(2) The term "local laws and regulations" as used in section 1 comprises all laws, whether National, State, Provincial, Municipal or otherwise, duly in force at the time when and at the place where any event occurs which comes within the terms of the Treaty.

(3) Whereas the Treaty only confers the right to own buildings within the territory of either High Contracting Party to the nationals of the other, it does not exclude such nationals from the right to own land as far as the local laws permit that land may be owned by foreigners.

(4) It was mentioned that under the law of some States of the United States buildings may be owned though the owner of such building is not the owner of the lot on which the building is erected, that, however, under German law it is impossible that the owner of the lot be not at the same time the owner of the building, the ownership of the building following the ownership of the lot.

Article II

(5) This article takes regard only of relatives and dependents of an injured party and is intended to place the nationals of one of the High Contracting Parties in the same position in respect to the subject matter of the Article as the nationals of the other Party enjoy.

Article IV

(6) It is ascertained that par. 1 refers only to immovable property and par. 2 to movable property.

(7) This Article is intended to secure to the beneficiaries of a will and to heirs the right to dispose of the property bequeathed or descending to them and to receive the proceeds of the sale of the property notwithstanding that, according to local law they, because of alienage, are not eligible to own the property.

Article VII

(8) The term "manufactured" in par. 2 shall include any kind and any stage of manufacturing process regardless of the material used in such process.

Article VIII

(9) The view was expressed that the term "duties, charges, and taxes" as used in the Treaty throughout shall comprise all duties, charges, taxes, fees or other pecuniary burdens whatsoever, which are duly imposed by National, State, or Provincial laws and/or

regulations, and levied by or on behalf or by authority of the competent authorities. It was observed that Article VIII implies that no discrimination of whatever kind shall by any means take place in regard of the goods, wares and merchandise of the nationals of either High Contracting Party within the territory of the other in respect of the before-mentioned duties, charges and taxes.

Article IX

(10) It was the consensus of view that Government vessels, if used for mercantile purposes, shall come under this provision.

Article XII

(11) The view was expressed that corporations and associations should be deemed to come within the meaning of this Article only in so far as they are distinct and separate legal entities under the laws of the respective countries, and that partnerships do not constitute legal entities within the meaning of the Article.

Article XV

(12) It was indicated that it was not intended, with reference to Section d, that the usual charges for personal baggage other than samples should be effected or that preference shall be granted in regard to transportation facilities or railway charges or otherwise.

Article XVII

(13) It was the prevailing view that the term "reciprocity" as used in this Article meant "mutually".

(14) It was the consensus of opinion that under the provisions of this Article consular officers of the other High Contracting Party might take the testimony on oath of the nationals of the country where such consular officers reside, provided that such nationals are willing to give their testimony before such consular officers.

Article XVIII

(15) The question was raised whether the term "consular officials" comprises consuls de Carrière, vice-consuls, honorary consuls, interpreters, vice-interpreters. It was the general view that the term included these officials.

Article XXII

(16) It was explained that under the German law certain acts for the passing of title in real property situated in Germany are reserved for and are to be executed before courts of law. The view was expressed that nothing in this Treaty should be construed to dispense with the respective provisions of the German law.

Article XXIII

(17) The view was expressed that controversies having a criminal aspect might come within this Article and that consular officers are so far subjected to the law of procedure of the country within the territory in which they reside that they may not claim the right to appear before the judicial authorities when such laws prevent them from doing so.

Article XXIV

(18) The question was asked whether the expression "pending the appointment of an administrator" meant the appointment of an administrator by the authorities of the country in which the consular officer resides. It was answered in the affirmative.

Article XXVI

(19) It was observed that the German Government would find difficulty in imposing pressure upon the master or crew of any foreign vessel to admit a consular officer. It was the view that such pressure was not contemplated.

Article XXX

(20) In respect of this Article special reference is taken to par. 3[*2*], section 1 of Article II of the Treaty Restoring Friendly Relations between the United States and Germany concluded August 25, 1921,[3] reading as follows:

"The United States in availing itself of the rights and advantages stipulated in the provisions of that Treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions."

Germany, when concluding the treaties ending the world war, undertook to conclude certain further treaties and give certain rights to third powers. All treaties which have in consequence of these former treaties been concluded or will be concluded by Germany granting certain treatment in economic questions, customs, prices, transportation facilities, or otherwise, would be concluded in compliance with the peace treaties as an obligation and a right of Germany, establishing thereby no precedent out of which claims for a most-favored-nation treatment may arise except as such claims might be made under the Treaty of August 25, 1921, between the United States and Germany and the provisions of the Treaty of Versailles to the benefits of which the United States became entitled by the Treaty of August 25, 1921, and provided that Germany does not grant such treatment to

[3] *Foreign Relations*, 1921, vol. II, p. 29.

any third power to which she is under no obligation to fulfill one of the above-mentioned treaties concluding the world war.

This memorandum is prepared as a minute of conversations, and is in no sense an agreement supplemental to the treaty or binding on the parties to the treaty as interpretative of its provisions.

711.622/41

The Solicitor for the Department of State (Hyde) to the Secretary of State

[WASHINGTON,] *December 5, 1923.*

DEAR MR. SECRETARY: On Friday afternoon, November 30, 1923, the German Ambassador and his Counsellor, Dr. von Lewinski, called at this office in reference to the proposed treaty of friendship, commerce and consular rights. The Department was represented by Mr. Castle, Doctor McClure, Messrs. Metzger, Barnes and the undersigned.

The Ambassador made numerous inquiries and proposed numerous changes. After two conferences concluded at 11 A.M. December 1st, the representatives of the Department undertook a careful study of the proposals made. At 6 P.M. they were virtually satisfied as to what could and what could not be accepted.

The final conference took place at 9 P.M. December 1st, and at 11:15 P.M., the German Ambassador agreed to accept the treaty, subject to the modifications to which the Department found it possible to yield or desired to offer. The changes in the text are attached hereto.[4] For the most part they are of slight consequence.

Without adverting to the German proposals which it seemed unwise or impossible to accept, attention is called simply to what was perhaps the major German proposal. It was amendatory of that provision of Article I which contemplates that "property shall not be taken without due process of law and without the payment of just compensation". The Ambassador stated that the German Constitution permitted the taking of property without payment of just compensation, and that the sentence quoted might be a violation of their fundamental law. While he intimated that it would be unlikely that the German legislature would avail itself of its constitutional right to take property of aliens without payment of just compensation, he stated there was a strong feeling in his country that the Constitution should not be interfered with. The reply in behalf of the Department was that the sentence in the American text did not contemplate a yielding of anything which the German Constitution forbade, and it was, therefore, in no sense

[4] Not printed.

a violation of that document; that it merely marked an agreement by Germany not to exercise a constitutional right, and one which if exercised would cause immediate protest by this Government in so far as it applied to American citizens. A copy is appended hereto of a letter [5] which, in view of the Department's position, will probably be submitted by the Ambassador upon the signing of the treaty. It is doubted whether any reply thereto should be made.

On the accompanying papers [5] are shown the precise changes in the treaty which are submitted for your approval for incorporation in the text. The work of aligning the English and German text is not quite completed. It is hoped, however, that both versions may be in exact and final form and ready for signature tomorrow. It may be added that the Ambassador has also filed a statement setting forth his understanding of explanations of the treaty made by representatives of the Department.[6]

It is a satisfaction to refer to the valued cooperation of Mr. Castle and Doctor McClure throughout these negotiations, as well as of Messrs. Metzger and Barnes.

C[HARLES] C. H[YDE]

Treaty Series No. 725

Treaty between the United States of America and Germany, Signed at Washington, December 8, 1923 [7]

The United States of America and Germany, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America,

Mr. Charles Evans Hughes, Secretary of State of the United States of America, and

The President of the German Empire,

Dr. Otto Wiedfeldt, German Ambassador to the United States of America,

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[5] Not printed.

[6] See memorandum *supra*.

[7] In English and German; German text not printed. Ratification advised by the Senate, with reservations and understandings, Feb. 10, 1925; ratified by the President, Oct. 6, 1925; ratified by Germany, Aug. 20, 1925; ratifications exchanged at Washington, Oct. 14, 1925; proclaimed by the President, Oct. 14, 1925.

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.[8]

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and

[8] For Senate reservation concerning this article, see bracketed note, p. 45.

privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufacturies, shops and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise,

conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

Article VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

Article VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and uncondi-

tionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All the articles which are or may be legally imported from foreign countries into ports of the United States, in United States vessels, may likewise be imported into those ports in German vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Germany, in German vessels, may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in German vessels.[9]

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article shall apply to the importation of goods into and the exportation of goods from all areas within the German customs lines, but shall not extend to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometers) wide on either side of its customs frontier, or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,[10] or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

Article VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment

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[9] For Senate reservation concerning this paragraph, see bracketed note, p. 45.

[10] William M. Malloy (ed.), *Treaties, Conventions, etc. between the United States of America and Other Powers*, 1776–1909 (Washington, Government Printing Office, 1910), vol. I, p. 353.

as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

Article IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.[11]

Article X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

Article XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the United States is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of the United States in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.[11]

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[11] For Senate reservation concerning this article, see bracketed note, p. 45.

Article XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

Article XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business. The foregoing stipulations do not apply to the organization of and participation in political associations.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon com-

pliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV

(*a*) Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the High Contracting Parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other High Contracting Party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

In case either of the High Contracting Parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this article, or otherwise, enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

(*b*) In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Section (*a*).

(*c*) A commercial traveler may sell his samples without obtaining a special license as an importer.

(*d*) Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped or defaced in such manner that they cannot be put to other uses shall be considered as objects without commercial value.

(*e*) Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six (6) months.

Duties shall be paid on such portion of the samples as shall not have been so withdrawn.

(*f*) All customs formalities shall be simplified as much as possible with a view to avoid delay in the despatch of samples.

(*g*) Peddlers and other salesmen who vend directly to the consumer, even though they have not an established place of business

in the country in which they operate, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind which they carry on.

(*h*) No license shall be required of:

(1) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(2) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(3) Travelers who are exclusively buyers.

(*i*) Any concessions affecting any of the provisions of the present Article that may hereafter be granted by either High Contracting Party, either by law or by treaty or convention, shall immediately be extended to the other Party.

Article XV

(*a*) Regulations governing the renewal and transfer of licenses issued under the provisions of Article XIV, and the imposition of fines and other penalties for any misuse of licenses may be made by either of the High Contracting Parties whenever advisable within the terms of Article XIV and without prejudice to the rights defined therein.

If such regulations permit the renewal of licenses, the fee for renewal will not be greater than that charged for the original license.

If such regulations permit the transfer of licenses, upon satisfactory proof that transferee or assignee is in every sense the true successor of the original licensee, and that he can furnish a certificate of identification similar to that furnished by the original licensee, he will be allowed to operate as a commercial traveler pending the arrival of the new certificate of identification, but the cancellation of the bond for the samples shall not be effected before the arrival of the said certificate.

(*b*) It is the citizenship of the firm that the commercial traveler represents, and not his own, that governs the issuance to him of a certificate of identification.

The High Contracting Parties agree to empower the local customs officials or other competent authorities to issue the said licenses upon surrender of the certificate of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said officials shall immediately transmit the appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure

from the country. Due notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules, plus five business days for purposes of official verification and registration.

(*c*) It is understood that the traveler will not engage in the sale of other articles than those embraced by his lines of business; he may sell his samples, thus incurring an obligation to pay the customs duties thereupon, but he may not sell other articles brought with him or sent to him, which are not reasonably and clearly representative of the kind of business he purports to represent.

(*d*) Advertising matter brought by commercial travelers in appropriate quantities shall be treated as samples without commercial value. Objects having a depreciative commercial value because of adaptation for purposes of advertisement, and intended for gratuitous distribution, shall, when introduced in reasonable quantities, also be treated as samples without commercial value. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries. Samples accompanying the commercial traveler will be despatched as a portion of his personal baggage; and those arriving after him will be given precedence over ordinary freight.

(*e*) If the original license was issued for a period longer than six months, or if the license be renewed, the bond for the samples will be correspondingly extended. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries.

Article XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United States, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper customhouse, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

Article XVII

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

Article XVIII

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his

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testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

Article XIX

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

Article XX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancel-

lors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

Article XXI

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

Article XXII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was ap-

pointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

Article XXIII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

Article XXIV

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and

until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

Article XXV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

Article XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

Article XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time

during his encumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

Article XXVIII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

Article XXIX

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone; for purposes connected with customs administration the territory of Germany shall be deemed to be coterminus with the area included within the German customs lines.

Article XXX

Nothing in the present Treaty shall be construed to limit or restrict in any way the rights, privileges and advantages accorded to the

United States or its nationals or to Germany or its nationals, by the Treaty between the United States and Germany restoring friendly relations, concluded on August 25, 1921.

Article XXXI

The present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying, by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

Article XXXII

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In Witness Whereof the respective Plenipotentiaries have signed the same and have affixed their seals hereto.

Done in duplicate, in the English and German languages, at the City of Washington, this 8th day of December, 1923.

[seal] Charles Evans Hughes
[seal] Dr. Otto Wiedfeldt

[The Senate resolution of February 10, 1925, giving advice and consent to ratification of the treaty, contained the two following reservations:

First, that there shall be added to Article I of said treaty the following: "Nothing herein contained shall be construed to affect existing statutes of either country in relation to the immigration of aliens or the right of either country to enact such statutes."

Second, that the fifth paragraph of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratification, and if not then terminated on ninety days previous notice shall remain in force until Congress shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each high contracting party shall enjoy all the rights which it would have possessed had such paragraph or articles not been embraced in the treaty.

The German Ambassador in a letter to the Secretary of State dated May 21, 1925, stated that Germany agreed to the Senate reservations.]

EFFORTS OF THE UNITED STATES TO ASSIST IN THE SOLUTION OF THE PROBLEMS OF GERMAN REPARATIONS[13]

700.0011 R 34/10

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), January 5, 1923

. . . . . .

The Secretary said that he had been informed at the Department press conference this morning, by one of the correspondents, that M. Poincaré in answer to an inquiry had categorically denied that he had received any suggestion from the American Government along the line of the Secretary's statement in his New Haven speech.[14] The Secretary said he was very much surprised at this and could not credit such a report; that of course he had not sent a formal note on the subject, as he desired to deal with the matter in a manner most welcome to the French Government, but that he had presented the matter and it had been discussed and he had received through the Ambassador M. Poincaré's replies to his suggestion.[15] The Secretary said he hoped that the statements made at Paris would not compel him to state here exactly what had taken place. The Ambassador said he could not understand such reports; that of course it had been talked over with the Secretary and the Ambassador referred to the circumstances, to the telegrams he had brought in, and to M. Poincaré's comments. He said that perhaps M. Poincaré had said that he had not officially received a suggestion. The Secretary said he did not care to enter into any discussion of mere matter of form, but the French Government certainly had the suggestion before it, and the Secretary could not be put in a position before the American people of contenting himself with making a speech at New Haven and supposing that that was a way to address the French Government; that he had taken the matter up with the Ambassador and if it were questioned he would have to make this clear.

The Ambassador asked whether the Secretary thought it necessary that there should be a correction in Paris and said he could not

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[13] Continued from *Foreign Relations*, 1922, vol. II, pp. 160–203.

[14] See telegram, Dec. 29, 1922, to the Ambassador in France, *ibid.*, p. 199.

[15] See memoranda of conversations held Dec. 14 and Dec. 21, 1922, *ibid.*, pp. 187 and 195.

credit the report. The Secretary said he would not ask for any correction but possibly it would be well, if the Ambassador were willing, to state the situation to the French Government, so that there would not be statements coming out of Paris which would give a wrong impression here. The Ambassador indicated that he would do this.

. . . . . .

862T.01/506½

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), January 8, 1923

The French Ambassador called at the Secretary's request. The Secretary informed the Ambassador that he had confidential advices to the effect that the French intended to occupy the Ruhr within six days. The Secretary spoke of the Senate Resolution calling for the withdrawal of the American troops [16] and said that he would be glad, if the Ambassador were free to inform him, whether the report to which he had referred was accurate. The Secretary said that if the French started to go into the Ruhr, our troops would be withdrawn at once. The Ambassador said he had no information on the subject. He expressed the hope that the American troops would not be withdrawn. The Ambassador said he would cable for information but he intimated that all the plans would be made for the occupation of the Ruhr in order to impress Germany and in the hope that some better offer would be made by Germany and that it was not likely that the Government would say they did not intend to go into the Ruhr; that all preparations would be made as if they were going in. The Ambassador did not know what had been decided upon.

The Secretary said that he had informed the press that the matter of the Secretary's suggestion for an impartial examination of the reparations question for the development of a financial plan by a body of experts, had been discussed with the French Government;[17] that the two governments had exchanged their views upon the question. The Secretary said that he had discussed the matter with the Ambassador, who had reported it to his Government, and M. Poincaré had made replies, and of course it had been presented as fully as it could be except it were the subject of a diplomatic note, and that

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[16] S. Res. 395, Jan. 5, 1923, 67th Cong., 4th sess.; see *Congressional Record*, vol. 64, pt. 2, pp. 1276, 1349, and 1361.

[17] See telegram, Jan. 6, 1923, to Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 202.

if the French Government desired the Secretary to send a formal note to that effect he was ready to do so; that he did not care to be put in the position of not having presented a matter to the French Government when he had done so fully.

The Ambassador said that he thought it was better to let the matter rest and not to take it up further. The Ambassador again expressed the hope that nothing would be done at the moment with regard to the troops, for fear it would give a wrong impression abroad. The Ambassador said he would cable for information as to the plans of his government with regard to the occupation of the Ruhr, but intimated that he could hardly expect that he would be authorized to make a definite statement.

. . . . . .

862T.01/514 : Telegram

The Ambassador in Germany (Houghton) to the Secretary of State

[Paraphrase]

BERLIN, *January 10, 1923—4 p.m.*

[Received 9 p.m.]

5. Cuno [18] just told me that he will make no appeal for support either to the United States or any other country. He intends to let history take its course. In case France occupies the Ruhr, Germany will summon her Ambassador at Paris to Berlin. Germany will not break off diplomatic relations but will issue a statement saying that he has been called to Berlin. Afterwards Cuno will send a note to all governments protesting against the invasion and the violation of the Treaty of Versailles. He stated that during the occupation of the Ruhr he will not, because he cannot, pay reparations or even discuss them. He said that the situation was still uncertain as troops are evidently being held back. The French Ambassador has requested an appointment with Minister for Foreign Affairs for this afternoon in order to make a statement.

Cuno seems anxious that American forces should be retained for the present. He says that Allen's presence on the Rhine will make treatment of Germans much less severe and possibly avert more serious trouble.

If France should attempt to divert coal a serious situation will immediately develop. At the present time the fuel supply in Germany is quite inadequate.

HOUGHTON

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[18] Chancellor of the German Reich.

862T.01/512 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *January 10, 1923—5 p.m.*
[Received 7:45 p.m.]

16. General Buat personally informed military attaché as follows: The French divisions totalling 10,000 men move into the Ruhr tomorrow. No North African troops whatever in this force. All composed of Frenchmen. If any further troops required to be sent they will be Frenchmen. All arrangements under direction of General Degoutte who will place troops about Essen as he deems best for the protection of engineers.

General Buat added that he had originally intended to send two sections of French railway troops to assure this movement but since the German railway men are carrying out the movement with the greatest efficiency he has countermanded the order.

The two divisions withdrawn from the army of the Rhine are being drafted from the troops from the eastern frontier garrisons.

HERRICK

862T.01/15½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (Cartier), January 11, 1923

The Ambassador said that he had no special matter to present but wished to say that he hoped that it was understood by the American Government that the Belgian Government felt it was necessary to participate with the French in the Ruhr movement. He said that Ambassador Fletcher was entirely in the confidence of the Belgian Government and undoubtedly had been fully advised and in turn had reported to the Department the position which the Belgian Government had taken. The Ambassador intimated that they had not desired such action but did not see their way clear to disassociate themselves from it.

The conversation then turned generally to the effects of the occupation. The Secretary expressed his regret that this action should have been taken, his belief that it was not a way to obtain substantial reparations, and that serious consequences might ensue. The Belgian Ambassador did not intimate any difference in the point of view.

862T.01/524

Statement for the Press Handed by the German Ambassador (Wiedfeldt) to the Under Secretary of State (Phillips), January 11, 1923

WASHINGTON, *January 10, 1923.*

The French Ambassador and immediately afterwards the Belgian Chargé d'Affaires in Berlin have this afternoon informed the German Minister for Foreign Affairs in writing and orally that France and Belgium because of the defaults declared by the Reparations Commission as committed by Germany in execution of the deliveries of wood and coal, have decided immediately to send into the Ruhr control missions, composed of engineers and accompanied by the troops necessary, to control the management of the Coal Syndicate, to guarantee the strict execution of the program of the Reparations Commission and to enforce the payment of reparations. The Control Missions will be placed under General Degoutte, who will have full dictatorial powers. Any local disturbances will be punished with the most severe coercive measures and penalties.

The German Minister for Foreign Affairs has lodged a protest with the two foreign representatives against the action contemplated because this action represents a breach of the Treaties and of international law.

Owing to the declarations made by France and Belgium there is no longer any doubt that tomorrow at the latest a Franco-Belgian army will occupy Essen and parts of the Ruhr territory. This happens four years after the signing of the Peace Treaty and is directed against a defenceless and peaceful nation.

The reason given for the procedure is that Germany is in default in her deliveries of wood and coal in 1922. The default in the case of coal represents a deficit amounting to less than 4% of the deliveries of coal to the Entente Powers since the signing of the Armistice. Of the deliveries of wood to France for 1922 only 20,000 cubic metres sawnwood and 135,000 telegraph-poles are missing. France and Belgium justify their action by asserting that Germany is in voluntary default and that this voluntary default justifies onesided coercive measures directed against Germany on the part of these two powers.

The existence of such a default on the part of Germany is not only denied by Germany alone. But entirely apart from that the Franco-Belgian action represents a breach of the Treaty of Versailles in a threefold manner:

1. Germany's defaults in her deliveries of wood and coal would, according to the note of the Reparations Commission of March 21, 1922, always only justify demands for subsequent payments.

2. The Treaty of Versailles does not admit any territorial sanctions.

3. The measures allowed by the Treaty of Versailles against Germany can only be applied by the Allied Powers as a whole and not by single powers of their own accord.

The German Government herewith enters a protest against the oppression applied towards Germany in contradiction with the Treaty and International Law. The German Government does not intend to meet violence with violence nor to reply to the breach of the Treaty with a withdrawal from the Treaty. However, as long as the state of affairs contrary to the Treaty exists, Germany is not in a position to make actual reparations to those powers who have brought about this state of affairs.

862T.01/528 : Telegram

The Unofficial Observer on the Interallied Rhineland High Commission (Allen) to the Secretary of State

COBLENZ, *January 13, 1923—5 p.m.*

[Received January 13—3 p.m.]

My personal and unofficial representations regarding renewal of negotiation that might bring about an arrangement were sympathetically received yesterday by informal meeting of High Commissioners called on my initiative. They and I recognized that the question is not within their competence but the seriousness of the situation, the knowledge of its eventual import and the way in which the High Commission is connected with the new occupation by the French plan, would indicate usefulness of an expression from that source. Each one has made report of this event to his government.

Daily it is becoming evident that that published mild procedure of the "economic mission" to which passive resistance is made in the Ruhr and strong protest everywhere in Germany, is giving way to the customary occupation by force. Tirard's[20] statement that the boundary of Rhine province would not be crossed before 15th fails by the occupation to-day of Bochum.

. . . . . .

Kilmarnock[21] received instructions yesterday to abstain from commission discussion bearing on French plan of action.

ALLEN

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[20] French High Commissioner on the Interallied Rhineland High Commission and president of the Commission.

[21] Lord Kilmarnock, British High Commissioner.

862T.01/528 : Telegram

The Secretary of State to the Unofficial Observer on the Interallied Rhineland High Commission (Allen)

WASHINGTON, *January 15, 1923—5 p.m.*

15. Your January 13, 5 p. m. In view of the recent developments, it is desired that you should refrain from expressing any opinions or presenting any plans in relation to the existing delicate situation without explicit instructions from the Department. At present no action should be taken by you outside of the essential military duties in winding up.

French Ambassador here has received a telegram from Poincaré referring to a suggestion made by you with regard to the renewal of negotiations. French Government does not view with favor this suggestion which is considered inopportune. The American Government does not desire any suggestions by its representatives at this time without the directions of the Department.

HUGHES

462.00 R 29/2396½

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), January 25, 1923

The Ambassador said that he had called, on behalf of his Government, to ascertain what the Secretary thought with regard to the situation in the Ruhr. The Ambassador referred to the matter as very serious and saying that he had been asked to report as to the state of American opinion, which he thought he clearly understood, but that he would be very glad to have the Secretary state his own impressions, and, if he saw fit, the position of the United States Government.

The Secretary said that opinion in the United States was divided; that there was a considerable body of opinion to the effect that France had been devastated, that she had not been able to recover from Germany the reparations to which she was justly entitled, and that finally she felt compelled to go in and see what she could get for herself, and it was hoped that she would succeed; that those who held this view were quite influential and that this was an important body of opinion. Another view largely held was that of those who looked at the matter from the standpoint of Germany and felt that the action taken by France would make impossible the recuperation of Germany and thus defeat the ostensible object of getting reparations and would lead to economic disaster. Those that took the latter view were demanding some action to stop the French.

The Secretary said that there were other groups who did not hold either the extreme pro-French or an extreme pro-German view, but were divided with regard to certain principles of action. One group wished this Government to "go in," as the expression is, that is, to be more intimately related to the European affairs; and the other group demanding that the Government "stay out" and have nothing to do with them. The Secretary said that there were still others who did not take either a pro-French or a pro-German view and were not obsessed with any idea of either going in or staying out but were taking a view of the matter in its relation to the economic rehabilitation of Europe and to the maintenance of peace and the establishment of a basis upon which the nations concerned could have a fair degree of prosperity and stability. The Secretary said that these were much concerned not only with the direct consequences of the action of the French, but with the indirect consequences to which so many were oblivious;—for example, quite apart from the immediate and direct results of the occupation of the Ruhr was the strangulation of German credit. Thus, not only were German industries incommoded at the time for want of coal but no one throughout the world was placing any orders with Germany that it could place elsewhere. This was due to a fear of the prospects of German industry and the absence of German credit and the consequence was that there would be a speedy and extensive impairment of Germany's capacity to export, upon which the payment of reparations ultimately depends. The Secretary also referred to the fact that Italy was largely dependent upon German coal and so was Switzerland, and that the consequences therefore were very serious with respect to a large part of Europe outside of Germany. The Secretary said that the real question was what could be done which would be really helpful. It was easy to do things but not at all easy to suggest any course which promised any result. The Secretary asked what the British Government thought of the matter.

The Ambassador said that the opinion in England was divided just as it was here; that through the southern part of England there was a very pronounced feeling in favor of the French; that this was true also in the Highlands; that through the Midland counties, especially among the labor people, there was a very decided anti-French opinion; that this division of sentiment made it very difficult for the Government and that they were going to have a serious time. The Ambassador referred to what the Secretary had said about German credit and asked if we had definite corroboration of the fact that Germany was losing orders for industrial products. The Ambassador said that they had noticed the transfer of orders

to England and he wondered whether the same was true here. The Secretary said that he did not have specific instances but he had understood that this was the case to some extent. The Ambassador said that the British might have some temporary advantage but it would be very temporary, and, of course, their great interest was the re-establishment of sound economic conditions.

The Secretary asked the Ambassador what his Government thought could be done. The Ambassador said that he did not see what they could do. The Secretary asked whether they had made any protest to the French against the occupation of the Ruhr. The Ambassador said they had not. The Secretary said that he had been informed that Italy had made some effort but had not succeeded, and asked whether the Ambassador was informed as to exactly what had taken place. The Ambassador said that he understood that Italy had made some request, but that there was nothing that his Government could do about it.

The Secretary said that he had understood that the Italian Government had been assured by France that the object was merely to have a civic supervision and that the Italians were very much surprised at the extent of the military movement; that it had been understood that there would be only a few guards necessary to protect the civil representatives in establishing some sort of supervision over payments and deliveries or in taking guarantees, whatever that might mean. The Ambassador said that the British Government had felt at the time of the Paris Conference on January 2nd, and later, that the French were contemplating a military movement. The Secretary said he understood that but he was asking to what extent the French had informed the British Government as to their proposed action. The Secretary said that so far as the American Government was concerned, the inquiry just preceding the actual invasion made no suggestion of any extensive military movement. The Ambassador said that he was quite sure that the French had made the same professions to the British Government, and he agreed with the Secretary that there had been no announcement of the French plan until the French made their statement to Germany on the eve of the movement of their troops.

The Secretary said that the developments were exactly what he had anticipated; that one step required another to justify it, and that it was impossible for a retreat to be made, and that each action of German resistance would be followed by an extension of French operations.

The Secretary asked again whether the British Ambassador thought that the French were in a mood to receive any suggestion. The Ambassador said that he did not think so. The Secretary said

that he had felt that there was a growing tenseness on both sides; that the war spirit was reviving; that the French on the one hand were determined to prosecute their undertaking, and that, on the other hand, whatever disposition may have been left among the Germans to make an endeavor to pay was rapidly departing, and now the Germans themselves would be unwilling to have negotiations undertaken which would leave to the French an advantage by reason of their invasion and would insist that nothing should be done until the French had withdrawn. Thus there appeared to be a contest in which neither party was willing to yield.

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The Secretary said that of course the United States Government took the deepest interest in the situation and desired to see some final solution that would be adequate but that he did not feel that at this moment either France or Germany would lend a willing ear to any suggestion; that it was not worth while to do anything unless there was a reasonable prospect of success, and that there could not be a prospect of success unless France was willing to give assent. The Secretary said that any suggestion that might be made would have to be one that was cordially welcomed by France or else one which was of such obvious propriety and merit that it would compel approval. The Secretary said he did not know at this time of any such suggestion that could be made, and asked whether the Ambassador did. The Ambassador said that he felt the same way in the matter and he thought his Government did.

The Secretary said that the developments would be closely examined and the day might come when there would be a better prospect.

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862T.01/657½.

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), February 23, 1923

The Ambassador said that he had received a request from Lord Curzon some days ago to speak to the Secretary about the matters mentioned below, but on account of illness he had not been able to make an earlier appointment:

1. Ruhr Situation—The Ambassador said that he had reported to Lord Curzon the Secretary's inquiry at his last interview as to what the British Government thought could be done, and Lord Curzon had expressed his appreciation. The Ambassador said that Lord Curzon did not feel that there was anything that could be done at the moment, but the Ambassador said that while Lord

Curzon's message was very brief, being not nearly as full as his ordinary communications, he gathered that Lord Curzon felt that the time was approaching when something could be done although he did not indicate what evidence he had of this. The Secretary asked whether the Ambassador had any information indicating that the French were any less determined to go through with their plan. The Ambassador said that he had not.

The Ambassador asked whether the Secretary had heard of any rumors of an intention by the French to make a further advance. The Secretary said that he had nothing beyond what had appeared in the newspapers with respect to their intention to go to whatever extent was necessary to overcome the German resistance.

The Ambassador asked what in case there should be a favorable opening the Secretary thought would be a suitable course of procedure. The Secretary said he did not care to discuss a purely hypothetical matter. The Secretary said that what might be taken up as an hypothesis might soon develop into a proposal and he would be put in a position of having made some definite suggestion whereas the situation would not permit a definite suggestion. He thought if any plan appeared in the future to be feasible it would be in the light of the events then existing which could not now be foreseen.

The Secretary said that he felt that in all probability there would have to be some preliminary process of investigation in order to determine upon a satisfactory plan. The Ambassador agreed to this, but said he supposed the Governments concerned would have to agree in advance to abide by the result. The Secretary said that there was an obvious advantage in that, but there was also a disadvantage; if Governments agreed to be bound in advance, then the inquiry would be a strictly governmental inquiry conducted by representatives of Governments and in all probability the situation would be about the same as that which existed at the time of the Premiers' Conferences. The Secretary said that he had hoped that this political difficulty could be avoided by having impartial experts examine the matter; that in that event the Governments could not agree to be bound in advance, of course, but if they were disposed to acquiesce in the constitution of such a board the moral effect of their findings would be very great, perhaps inescapable. The Secretary said that he had stated his views on this point in his New Haven speech and at the moment he did not care to go beyond that. The Ambassador said he felt that nothing could be done at this time, as the French were bound to go ahead. The Secretary said that each side would probably have to "enjoy its own bit of chaos" until a disposition to a fair settlement had been created.

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462.00 R 29/2700

The German Embassy to the Department of State

The German Government has always maintained the point of view and considers itself obliged by the international discussion at the present time to emphasize anew that questions upon which the reconstruction, also desired by Germany, of the devasted areas and besides that the restoration of the sound economic life and peace of Europe depend, can only be solved by mutual understanding.

The occupation of the Ruhr is diametrically opposed to such aspirations and it therefore provoked the passive resistance of the Ruhr population.

The German Government shares the desire of all soberminded people that the daily increasing tension be relaxed and the wanton destruction of economic values cease. The German Government therefore has decided to make another attempt to arrive at an understanding without, however, abandoning its legal standpoint or desisting from the passive resistance, which will be continued until the areas occupied in excess of the stipulations of the Treaty of Versailles have been evacuated and the conditions on the Rhine restored according to the terms of the Rhineland agreement.[22]

Notwithstanding the events of the last few months Germany has adhered to her willingness to do all in her power in order to make reparations and especially to reconstruct the devasted areas. Every effort, however, to convert this willingness into the form of practical proposals is rendered more difficult by the fact that owing to the condition of Germany's financial and economic situation it is not possible to arrive at a tangible basis in fixed and definite figures for computing Germany's economic and financial capacity. Therefore every solution must be sufficiently elastic to take the present impossibility of a reliable computation into consideration.

It should furthermore be noted that Germany owing to the lack of surplus from her own production will in the near future be unable to raise any large amounts of capital from her own resources, and that consequently she needs foreign loans which, however, can only be obtained after German credit has been restored. Taking these facts into consideration and in conformity with the general idea of the plan prepared by it for the conference in Paris in last January the German Government summarizes its proposals for the

[22] For text of agreement, see S. Doc. 81, 66th Cong. 1st sess.; or Great Britain, Cmd. 222, Treaty Series No. 7 (1919): *Agreement between the United States of America, Belgium, the British Empire and France and Germany with Regard to the Military Occupation of the Territories of the Rhine, Signed at Versailles, June 28th, 1919.*

reparation's problem and the political questions connected therewith, as follows:

The sum of Germany's total obligations in cash and kind under the Treaty of Versailles to be fixed at 30 billion goldmarks of which twenty billions be raised before July 1, 1927, five billions before July 1, 1929, and five billions before July 1, 1931 by a bond issue at normal rates of interest on the international money market.

1.) The first twenty billion goldmarks to be offered for subscription immediately. Interest on bonds up to July 1, 1927, to be taken out of the proceeds of the loan and for purposes of security to be paid into a special fund under control of the Reparations Commission. If twenty billion goldmarks cannot be raised by means of a loan before July 1, 1927, interest of five per cent to be paid on that sum from said date in addition to one per cent for amortization.

2.) In case the two amounts of five billion goldmarks each cannot be raised fully by issues of bonds at normal rates before the dates fixed, an impartial international commission shall decide whether, when and how the amounts not yet accounted for are to be raised. The same commission would decide in July 1931 whether, when and how after July 1, 1923, the interest not provided for in the first instance is subsequently to be raised. As impartial international commission either the syndicate which puts up the first loan of twenty billion goldmarks or a committee of international businessmen according to the suggestions of Secretary of State Hughes—a committee on which Germany is to be represented with rights equal to those of other nations, is to be chosen. As third alternative the German Government proposes a court of arbitration composed of a representative of the Reparations Commission and a representative of the German Government together with a chairman whom the President of the United States would be requested to nominate in case the two other members fail to agree as to the nomination.

3.) Germany, in account of her obligations by the provisions of the existing treaties will also make payments in kind, the extent of which to be settled by detailed agreements.

The German Government is persuaded that by this offer it goes to the extreme limit of what Germany can do in employing all her strength and after the fresh grave disturbance and weakening of the German economic system by the occupation of the Ruhr, she questions whether this proposition does not exceed Germany's capacity to pay. Moreover, the German Government is convinced that no impartial person taking into account the curtailment of the basic productive capacity of Germany and the diminution of the resources she possesses as the result of the heavy payments she has already

made, can arrive at a higher valuation if he judges objectively. If this point of view should not be shared by the other side the German Government proposes in conformity with the suggestion made by the Secretary of State Hughes to submit the entire problem of reparations to an international commission free of any political influence. The entire property of Germany and all sources of income of Germany and of the German States are already pawned by the Treaty of Versailles. Only by way of negotiations with the International Loan Syndicate and the Reparations Commission it can be established how this mortgage is to take a concrete form for the purpose of serving the issue of the loan and which detailed guarantees are to be given. Besides that the German Government is willing according to the agreements still to be made, by appropriate measures and also by way of legislation to provide that the entire economic system of Germany has to contribute so as to assure the interest on the loan. The deliveries in kind to be guaranteed by private conventions covering long periods and stipulating penalties for non-fulfilment.

The execution of the obligations devolving upon Germany depends upon the stabilization of German currency. If German currency can be stabilized at the same time that the reparations problem is settled permanently, the fears of other industrial countries regarding German competition will simultaneously disappear. After the stabilization it will also be possible to create order in the household of the Reich necessary to Germany and her creditors.

To accomplish this program and also in the interests of the creditors who subscribe to the loan it is necessary that for the future there be no seizure by force of guarantees and no application of sanctions and that Germany be freed from unproductive expenses and from the political and economic chains that still weigh upon her. To this end the unification of the administration throughout German territory should be restored as soon as possible and there should be no further application of treaty rights to interfere with Germany's rights of equality and after German currency has been stabilized, imports from Germany should be freed from the restrictions due to the fall of the Mark.

To further the peace of Europe by common economic effort and in order to re-establish the natural economic relations between producers and consumers, a basis is to be established for the unhampered exchange of vitally important commodities between the countries concerned by private economic conventions, among these above all by long-termed private contracts for the delivery of coke and coal.

The German Government with the same interest of peaceful cooperation between Germany and France in view as was her inten-

tion when she proposed the conclusion of the Rhineland pact is willing to accept any agreement calculated to secure peace and based on reciprocity. The German Government is more especially prepared to accept any agreement binding Germany and France to submit all conflicts which cannot be settled in the diplomatic way, to a peaceful international procedure, that is to say juridical conflicts to arbitration and all other conflicts to reconciliation after the example of the Bryan agreements.

The German Government proposes to enter negotiations on the preceding basis. The starting point of these negotiations must be that the *status quo ante* be re-established within the shortest possible delay. This includes that the territories occupied beyond those authorized by the provisions of the Treaty of Versailles be evacuated, the conditions in the Rhineland re-established conforming to the agreements, the arrested Germans liberated, and their homes and positions restored to those who have been expelled.

The German Government has addressed the same note to the Royal Belgian Government, the French Government, His Britannic Majesty's Government, the Royal Italian Government and the Imperial Japanese Government.

WASHINGTON, *May 2, 1923.*

462.00 R 29/2701½

Memorandum by the Secretary of State of a Conversation with the German Ambassador (Wiedfeldt), May 3, 1923

Reparations.—The German Ambassador left a note, in English and German, dated May 2, 1923, containing the German offer. The Ambassador orally recapitulated the points of the note, but did not add to them, save to say that he was very glad that the German Government had been able to make a definite offer and he thought that this should be regarded as the starting point in the negotiations. He was rather skeptical about the acceptance of the French Government although there was no definite statement as yet from the Government itself as distinguished from the French press. The Secretary said that he supposed that the matter came down in the last analysis to an agreement between the Germans and the French; that the French were in possession and that it seemed to him that the question could only be solved by the most direct and intimate negotiations to find a satisfactory basis. The Secretary inquired whether contact could not be established so that the matter could be threshed out without necessarily taking the form of formal notes, as it seemed to him that the situation called for the most direct and

practical treatment. The Secretary also suggested that action seeming to be intended to bring pressure on France from the outside would have the immediate effect of causing an unpleasant French reaction and make the negotiations more difficult. In the last analysis the French agreement would have to be obtained and the question was what was the best course to secure it. The Ambassador did not express himself upon these points.

The Secretary said that there was always so much speculation with regard to a note of this sort, when it was known that it was to be delivered and the purport of it had been anticipated in the press, that he thought it advisable, if the Ambassador had no objection, that the text should be made public. The German Ambassador said there was no objection and he would make it public at once.

462.00 R 29/2704½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (Cartier), May 3, 1923

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Reparations.—The Belgian Ambassador referred to the German note as to reparations, published in the morning papers. The Secretary said that he had just received the text of the note from the German Ambassador and the Secretary said that he would say in a personal way that it was of great importance that negotiations should be actually entered into and it seemed as though the note might be a starting point. The Secretary had noted in the proposal that it was evidently intended to initiate negotiations.

The Ambassador said that now that the Germans had actually made a direct approach he felt that it indicated an appreciation on their part that it was necessary that something should be done and he hoped that there would be some result.

The Secretary said that it seemed to him quite impossible to conduct negotiations between the two Governments in a public square, as the public on each side would find it very difficult to support their Governments in making concessions, and that he wondered if it were not possible for the French and Belgians and the Germans to find a practicable way of conducting negotiations to a point of a reasonable adjustment. The Ambassador said he felt that that was very desirable and he hoped that some such way could be found; that the Germans should pay and that there ought to be a solution found.

The Secretary said that he was informed by the American business men who had been in Europe that conditions were ripe for general prosperity, if this matter between France and Belgium and Germany

could only be adjusted. Each party to the controversy could well afford to take a reasonable view because of the great advantage that would accrue to each as soon as a settlement was reached.

462.00 R 29/2804

The German Ambassador (Wiedfeldt) to the Secretary of State

[Translation]

WASHINGTON, *June 7, 1923.*

MR. SECRETARY OF STATE: The German Government has received different replies from the Allied Governments to its note of May 2nd. In order to avoid everything which might render more difficult the continuation of the interchange of views the German Government considers it should in its counter-reply confine itself to those points on which the Allied Governments, as expressed in their replies, held similar views. Owing to this consideration my Government has instructed me to transmit the enclosed memorandum to the Government of the United States of America.

In doing so, I may remark that the same communication is being made to His Britannic Majesty's Government, to the French Government, to the Royal Italian Government, to the Royal Belgian Government and to the Imperial Japanese Government.

Accept [etc.] O. WIEDFELDT

[Enclosure—Translation]

MEMORANDUM

1. The German Government after careful and conscientious examination expressed its sincere opinion as to what Germany is able to pay in reparations. The German Government would not act honestly nor bring the problem nearer to its real solution, if, merely in order temporarily to alleviate the political difficulties of the day, it were to promise more than what according to its conviction, the German nation by exerting all its powers is in a position to fulfil.

The question of Germany's capacity to pay is, however, a question of facts about which various opinions are possible. Germany does not fail to recognize that under the present circumstances it is exceedingly difficult to achieve a reliable estimate. For this reason the German Government proposed to accept the verdict of an impartial international body as regards the amount and the mode of payments to be made. A more convincing proof of Germany's will to do reparations is unthinkable. The German Government is willing to produce all material for a reliable judgment on the question of Germany's capacity to pay. The German Government will on demand grant every facility to investigate Germany's state finances

and also give all information desired as regards the economic resources of Germany.

2. The German Government had contemplated the floating of large loans in order as soon as possible to pay the creditor nations large amounts of capital. As long as the floating of loans in large amounts proves to be impracticable, the German Government is also willing to agree to a system of annuities instead of sums of capital.

3. As the Allied Governments lay stress on receiving now already more detailed information as regards the choice and nature of the guarantees contemplated by Germany, the German Government suggests the following guarantees for the accomplishment of the final reparations plan:

a. The state railways with all their constructions and assets to be severed from the other capital of state and to be converted into a separate estate independent as regards its proceeds and expenditures from the general administration of finances, and to be placed under separate administration. The state railways to issue gold bonds amounting to ten billion goldmarks which are to be entered as a first lien on the separate estate bearing 5% interest as after July 1st, 1927, thus guaranteeing an annuity of 500 million goldmarks.

b. In order to guarantee a further annuity of 500 million goldmarks as after July 1st, 1927, the German Government will immediately call upon the entire German economic system, i. e. the industries, banks, commerce, traffic, and agriculture to act as a guarantee which as a first lien amounting to ten billion goldmarks will be entered in the industrial, urban, rural, and forest real estate of Germany. The annuities of 500 million goldmarks will either be raised indirectly by universal taxation comprising also other property or directly only by the mortgaged objects.

c. Besides that the duties on table luxuries and the duties on tobacco, beer, wine and sugar, as well as the proceeds of the monopoly for the sale of spirits, are to be pawned as a guarantee for the annuities. The gross receipts of these taxes and of these duties amounting during the last years before the war to an average of approximately 800 million marks, have however since, owing to the loss of people and territory as well as owing to reduced consumption, declined to one quarter of their former value. But these receipts will, with the recuperation of German economics, rise automatically.

4. Lastly, the German Government considers itself bound to lay stress on the following:

In such a large and complicated question decisive progress cannot be made by written expositions but only by oral intercourse at a conference. Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment. The establishment of guarantees in their details makes the co-operation of those necessary for whom the guarantees are to

be established. For a solution of these questions oral discussions are necessary.

Germany acknowledges her obligation to pay reparations. The German Government reiterates its request to call a conference in order to agree upon the best mode to fulfil this obligation.

WASHINGTON, *June 7, 1923.*

462.00 R 29/2804½

Memorandum by the Secretary of State of a Conversation with the German Ambassador (Wiedfeldt), June 7, 1923

The Ambassador called and delivered a note enclosing a memorandum (with English translation of both note and memorandum),[23] dealing with the reparation question. The Ambassador said that the memorandum was intended to be supplementary to the German note of May second; that the endeavor was to avoid anything which would make it more difficult to continue the interchange of views with the Allies. The Secretary read the memorandum and said that he noted the statement in paragraph 4, as follows:

"In such a large and complicated question decisive progress cannot be made by written expositions but only by oral intercourse at a conference. Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment. The establishment of guarantees and their details makes the cooperation of those necessary for whom the guarantees are to be established. For solution of these questions oral discussions are necessary."

The Secretary said that he had been convinced that the most desirable course was for direct conversations to take place so that the difficulties that existed in the way of settlement should be removed; that it was almost impossible to remove these by exchanging written communications. The Ambassador said that it was the intention to have direct communication with France and Belgium and with England.

462.00 R 29/2815½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (Cartier), June 7, 1923

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Occupation of the Ruhr. Reparations.—The Ambassador referred to the matter casually in saying that he understood that some prog-

[23] *Supra.*

ress was being made. The Secretary informed the Ambassador that he had just received from the German Ambassador a copy of the German memorandum which had been delivered to the Allies. The Secretary referred to the suggestion of guarantees which were contained in this memorandum and especially to the significant statement in the memorandum, as follows: "Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment."

The Secretary said that this was a clear indication that the Germans were desirous to enter into direct negotiations with the French and Belgians and they had gone so far in this memorandum that it did not seem that such negotiations would be destitute of results. The Secretary said that some hope might be entertained and he trusted that there would be direct negotiations to bring about a proper settlement. The Ambassador said he had no word from his Government upon the matter but it was evident from the tenor of the German memorandum that the Germans were "thawing." While the Ambassador did not commit himself, he did not seem inclined to oppose the suggestion that the time was ripe for direct oral negotiations.

462.00 R 296/13½

Memorandum by the Secretary of State of a Conversation with the Italian Ambassador (Caetani), June 23, 1923

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German Reparations. The Ambassador said he was about to go to Europe and it would be very helpful to know the attitude of the Secretary with respect to the question of reparations; that he understood what his attitude was and which some Governments took when he made his suggestion for an International Commission of Experts, and he supposed that he entertained the same view.

The Secretary said that, of course, it would be agreeable at any time to have an arrangement made for an adjustment upon a fair and reasonable basis on the outstanding questions; that, however, he was not disposed to think that France was prepared to agree to any plan of examination by an international commission. The Secretary said that he felt that an essential condition of settlement was that the Germans should recognize their obligations; that the German industrialists must feel that they could not rely upon other Governments to aid Germany in evading her just obligations. The Secretary said he had no desire to see a prostrated Germany or a dismembered Germany, but that Germany must recognize the fact that

she was defeated and must pay to the fullest extent of her ability. The Secretary said he thought that the last German note, though unsatisfactory in detail, offered a basis for negotiations. The first thing was the appreciation by the Germans of the fact that they must pay and then that the French should enter into direct negotiations with the Germans, and that demands should be formulated. Public opinion would have a very important influence, because of the state of sentiment at this time, both in Germany and in France. The Secretary said that the American Government did not desire to dictate in any way; that it did not care to make any uninvited suggestions; that it was always ready in every practicable way to use its good offices, but so far as he could see the desire abroad was more that it should become a partisan than that it should be an impartial adviser.

462.00 R 29/2984a : Telegram

The Secretary of State to the Ambassador in Belgium (Fletcher)

WASHINGTON, *August 17, 1923—3 p.m.*

57. The Belgian Chargé came to see me on Thursday morning, August 16, to ask whether I would be willing to express any views on the subject of the very serious situation which had developed in connection with the Ruhr occupation and the correspondence between Great Britain, Belgium and France. He said that his Government would appreciate any suggestions I might feel free to make, as the position of Belgium was extremely difficult and they were very desirous to obtain a settlement of pending questions.

I told him that I did not wish to make any official statement on behalf of the United States Government at this time, since the parties directly concerned were in correspondence and since no communication had been addressed to this Government requiring its reply. I said, however, that I might say in a personal and unofficial way that this Government viewed the situation with deep concern and earnestly hoped a solution would be found. I told him also that I would speak frankly with respect to my personal views. I said it should be understood by the European Governments that it was idle to attempt, so far as the United States was concerned, to connect the reparation settlement and debts owing to this country. I pointed out that these debts were not within the control of the Executive but of Congress and that Congress would be governed by the dominant public sentiment. I said that there was not the slightest ground for expecting that there would be any diminution whatever in the British debt, which had been funded and further that the American people were not disposed to cancel the debts owing by the continental countries; that the

people here were not disposed to forego their claims in order to facilitate the support of armies and armament in Europe, nor would this Government countenance an arrangement which would be in effect the placing upon our people of the burden of the German indemnity. I said that we regarded the reparation question as distinct from that of the debts. If France were not indebted to the United States, the question of how much Germany could pay, the terms of payment and the matter of securing payment would still be the same. I said that if the reparation question were settled and the peoples of Europe reduced their armaments and set themselves determinedly to establish conditions of peace and stability, it was my opinion that the American people would be disposed to deal generously with the question of debts in the light of the actual condition of the debtors. I said that the immediate question for Europe was the settlement of reparations and that I believed the Belgian Government was in the best position to bring about an accord upon this question. Belgium could hardly escape the injurious consequences if there were disorder and revolution in Germany. On the other hand, the Belgians were the faithful allies of France and understood conditions in England. I said further that I thought this to be a favorable moment. It might be said that until recently the Germans had not shown a willingness to pay, but in the future there might be conditions in Germany which would make impossible any arrangements for payment.

I said I did not consider the reparations question insoluble. Apparently France wanted 26 milliard gold marks, Belgium 5, Great Britain 14 and to this total of 45 there might be small amounts added for other countries. There did not seem to be any insuperable difficulty in determining the amount which Germany could pay. The opinions of experts would not differ very widely on this question. I said also that I thought it should be possible to arrange for the terms of payment and guarantees by pledging the available resources of Germany under some approved supervision, probably of an international character, to insure that the payments were made.

As to the question of frontier security, Poincaré had stated that this did not enter into the reparations settlement, but, assuming that it was a question to be dealt with, France should make a definite and reasonable proposal as to what she wanted. I said that I thought it was a mistake to insist on the termination of passive resistance as a condition precedent to direct discussion. It might well be that a German Government could not stand which would abandon resistance without any assurance of any terms of settlement. I told him that I thought it was unfortunate in a practical discussion to interpose preliminary conditions of a practically impossible char-

acter. I added that I did not think that the results would be secured by public demands for surrender of any of the parties. It ought, on the other hand, to be possible to arrange quietly a basis of agreement as to the amounts of payment and terms of payment and security. When a substantial accord had been reached privately upon these points, the German Government could announce that passive resistance was withdrawn, the French immediately could announce that, in view of this, the military occupation of the Ruhr would be ended and the underlying accord could be made public. I said the situation was too serious to neglect any practicable measures to secure an agreement.

The Chargé said that he wished to telegraph what I had said to his Government and asked permission to return in the afternoon to show me the draft of his message. I said that I should be glad to see it, understanding that what I said was said personally and informally.

In the afternoon M. de Warzée showed me a telegram to his Government, embodying a summary of my statements. It was somewhat briefer than the above but correct in substance and I consented to its transmission.

HUGHES

462.00 R 296/16

The British Chargé (Chilton) to the Secretary of State

WASHINGTON, *October 13, 1923.*

MY DEAR MR. SECRETARY: I enclose herein an *Aide-Mémoire* recording the communication which I made to you this morning.

I am [etc.] H. G. CHILTON

[Enclosure]

The British Chargé (Chilton) to the Secretary of State

AIDE-MÉMOIRE

The extremely critical economic position that has arisen in Europe owing to the failure to discover any solution of the reparation problem which, as the political and financial condition of Germany grows worse, becomes daily more acute, is already known to the United States Government through information which reaches America. That unity of thought which either renders common action possible or will be successful in finding an early solution appears to be lacking among the European Powers. During the past nine months a series of proposals have been made by His Majesty's Government to their Allies for meeting these difficulties.

Unfortunately, none of them has met with a sufficient measure of acceptance to result in common action. And yet, failing such action, not only Germany but Europe seems to be drifting into economic disaster.

In the circumstances, His Majesty's Government have for long entertained the belief that the cooperation of the United States Government is an essential condition of any real advance towards settlement. By her position and history America is more disinterested than any of the European Powers. Nevertheless, the solution of the European problem is of direct and vital concern to her if for no other reason than because the question of inter-allied debt is involved therein. In last December when Mr. Hughes made his declaration both Great Britain and Germany made it clear that the proffered assistance would be warmly welcomed by them, and His Majesty's Government has always heartily approved the suggestion whenever it has been revived—a different view has hitherto been taken by the French Government. So far as His Majesty's Government are aware, the sole reason why the proposal has not been proceeded with is this lack of unanimity.

The manner in which, in the opinion of the United States Government, united action which is desired by all, could best be attained, was actually occupying the attention of His Majesty's Government when the morning press of October 11th published a declaration said to have been made by the President of the United States that the opinion of his Government rested on its proposal of last December. This declaration was warmly welcomed by His Majesty's Government who hope that they are justified in inferring from it that America will render the promised cooperation if the European Powers will join in such an enquiry.

If the statement of the President has been rightly interpreted by His Majesty's Government and if they may rely on an encouraging reception being given to such a proceeding, they will not hesitate to invite the immediate cooperation of their European Allies in addressing an invitation to the United States Government to take part in the proposed enquiry by deputing a delegation, either official or unofficial. On the other hand, if although complete unanimity had not been forthcoming in Europe it were nevertheless proposed to hold such an enquiry, could American cooperation still be hoped for by His Majesty's Government and the majority of the Allies? Alternatively, would America still be willing to participate, were it proposed that this enquiry should be entrusted to the Reparation Commission or to some other body appointed by it?

His Majesty's Government, speaking in the name of the whole British Empire as represented at the Imperial Conference now as-

sembled in London, firmly believe that the United States Government has it in its power to render a great service to the security and peace of the world, and it is in this belief that they desire to associate themselves with the renewal of the President's proposal; and any suggestion which the United States Government may be disposed to offer in reply to the questions which Lord Curzon has ventured to put will be gladly received.

[Washington,] *October 13, 1923.*

462.00 R 296/16

The Secretary of State to the British Chargé (Chilton)

Washington, *October 15, 1923.*

My Dear Mr. Chilton: I thank you for sending me the *Aide-Mémoire* recording the communication which you made to me on the thirteenth instant. I enclose a memorandum recording my reply thereto.

Permit me to add that while, of course, I shall treat your communication as confidential in accordance with your request, it is necessary for me to reserve the right to publish my reply in case the fact of the suggestion of your Government or of my answer should become public, or should be made known to other Powers, and it should be important that the attitude of the American Government should be made clear.[24]

I am [etc.] Charles E. Hughes

[Enclosure]

The Secretary of State to the British Chargé (Chilton)

Aide-Mémoire

In reply to the communication of His Majesty's Chargé d'Affaires, of October thirteenth, the Secretary of State desires again to express the deep interest of the United States in the economic situation in Europe and its readiness to aid in any practicable way to promote recuperation and a re-establishment of economic stability. The Government of the United States has viewed with deep concern the lack, as His Majesty's Government expresses it, of that unity of thought on the part of the European Powers essential to common action. The views of the Government of the United States as to the importance of agreement among the Allies and the relations of the Government of the United States to the questions involved were set forth in the statement of the Secretary of State to which His Majesty's

[24] The Department's reply was made public on Oct. 26.

Government refers, and these views are still held. It is observed that His Majesty's Government states that Great Britain and Germany made it clear that the proffered assistance would be warmly welcomed by them, and that His Majesty's Government has always heartily approved the suggestion, then made by the Secretary of State, whenever it has been revived, and that so far as His Majesty's Government is aware the sole reason why the proposal has not been proceeded with has been lack of unanimity among the interested Powers.

It is believed that present conditions make it imperative that a suitable financial plan should be evolved to prevent economic disaster in Europe, the consequences of which would be world wide. It is hoped that existing circumstances are propitious for the consideration of such a plan inasmuch as the abandonment of resistance on the part of the German Government will present a freer opportunity and an immediate necessity for establishing an economic program. The Government of the United States is therefore entirely willing to take part in an economic conference, in which all the European Allies chiefly concerned in German reparations participate, for the purpose of considering the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments. It is deemed advisable, however, to emphasize the following points:

(1) Confirming what was said by the Secretary of State in his statement of last December to which you refer, the Government of the United States has no desire to see Germany relieved of her responsibility for the war or of her just obligations. There should be no ground for the impression that a conference, if called, should have any such aim or that resistance to the fulfillment of Germany's obligations has any support. It should be evident that in the effort to attain the ends in view, regard must be had to the capacity of Germany to pay and to the fundamental condition of Germany's recuperation without which reparation payments will be impossible.

(2) Such a conference should be advisory; not for the purpose of binding governments who would naturally be unwilling to pledge their acceptance in advance, but to assure appropriate recommendations by a thoroughly informed and impartial body intent upon the solution of the difficult pending problems upon their merits.

(3) The Secretary of State notes the observation in the communication of His Majesty's Government that the European problem is of direct and vital interest to the United States "if for no other reason because the question of interallied debt is involved therein." The Government of the United States has consistently maintained the essential difference between the questions of Germany's capacity to pay, and of the practicable methods to secure reparation payments from Germany, and the payment by the Allies of their debts to the United States which constitute distinct obligations. In the state-

ment of the Secretary of State, to which His Majesty's Government refers, it was said:

"The matter is plain enough from our standpoint. The capacity of Germany to pay is not at all affected by any indebtedness of any of the Allies to us. That indebtedness does not diminish Germany's capacity, and its removal would not increase her capacity. For example, if France had been able to finance her part in the war without borrowing at all from us, that is, by taxation and internal loans, the problem of what Germany could pay would be exactly the same. Moreover, so far as the debtors to the United States are concerned, they have unsettled credit balances, and their condition and capacity to pay cannot be properly determined until the amount that can be realized on these credits for reparations has been determined.

"The Administration must also consider the difficulty arising from the fact that the question of these obligations which we hold, and what shall be done with them, is not a question within the province of the Executive. Not only may Congress deal with public property of this sort but it has dealt with it. It has created a Commission and instead of giving that Commission broad powers such as the Administration proposed, which quite apart from cancellation might permit a sound discretion to be exercised in accordance with the facts elicited, Congress has placed definite restrictions upon the power of the Commission in providing for the refunding of these debts."

It is hardly necessary to add, as it has frequently been stated by the Government of the United States, that while the American people do not favor cancellation of the debts of the Allies to the United States or of the transfer to the people of the United States of the burden of Germany's obligations, directly or indirectly, the Government of the United States has no desire to be oppressive or to refuse to make reasonable settlements as to time and terms of payment, in full consideration of the circumstances of the Allied debtors. It may be added that the establishment of sound economic conditions in Europe, the serious reduction of military outlays and the demonstration of a disposition of European peoples to work together to achieve the aims of peace and justice will not fail to have their proper influence upon American thought and purpose in connection with such adjustments.

In further reply to the communication of His Majesty's Government it may be said that the Government of the United States is not in a position to appoint a member of the Reparation Commission inasmuch as such an appointment cannot be made without the consent of the Congress. The Secretary of State has no doubt, however, that competent American citizens would be willing to participate in an economic inquiry, for the purposes stated, through an advisory body appointed by the Reparation Commission to make recommendations, in case that course after further consideration should be deemed preferable.

As to the further question, whether American cooperation in an inquiry for the purposes described in the communication of His Majesty's Government could be hoped for in case unanimity of the European Powers could not be had, the Government of the United States must again express the view that the questions involved can-

not be finally settled without the concurrence of the European Governments directly concerned. Other governments cannot consent for them; and it would manifestly be extremely difficult to formulate financial plans of such importance and complexity without the participation of those whose assent is necessary to their fulfillment. In view of the existing exigencies it is hoped that the project of such an inquiry as is contemplated of an advisory nature, might commend itself to all these Powers and that the question suggested will not arise. But if it should arise, through lack of unanimity on the part of the European Powers, the Government of the United States must reserve decision as to its course of action in order that the developments in such a contingency may be fully considered and that course taken which will give best promise of ultimate success in securing the desired end of reestablishing the essential conditions of European peace and economic restoration. To the attainment of that end it may be repeated the Government of the United States desires to lend its assistance in any manner that may be found feasible.

WASHINGTON, *October 15, 1923.*

462.00 R 296/16 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)[25]

WASHINGTON, *October 16, 1923—2 p.m.*

284. On October 13th the British Chargé d'Affaires made to me the following communication:

[Here follows the text of the British *aide-mémoire* printed on page 68.]

On the 15th I replied as follows:

[Here follows the text of the Department's *aide-mémoire* printed *supra.*]

[Paraphrase.] The British *aide-mémoire* was communicated in the strictest confidence, and only the President and myself are aware of it and of my reply. I said in my reply that while I should treat the British communication as confidential, I must reserve the right to publish the reply should the fact of the British Government's suggestion or of my answer become public or should it be made known to other Powers, and that it was of importance that the attitude of the American Government should be made clear. It

[25] On Oct. 23 Ambassador Harvey was instructed to transmit this telegram by mail to the Embassies in Belgium and France; on Oct. 24 to the Embassy in Italy; and on Oct. 26 to the Embassy in Germany.

seems probable that my reply will be communicated to the Imperial Conference. If any developments should come to your notice you will please advise me.

Should the British Government decide to approach the French Government, it is very important that they should do so in a conciliatory manner, and without any statement which would suggest a British-American understanding in advance. My reply to the British communication was exactly the same, of course, as it would have been to any other government making a similar inquiry. [End paraphrase.]

HUGHES

462.00 R 296/21

The British Chargé (Chilton) to the Secretary of State

No. 896 WASHINGTON, *October 19, 1923.*

MY DEAR MR. SECRETARY: I did not fail to communicate to His Majesty's Government the contents of the *aide-memoire* enclosed in the letter which you were so good as to address to me on the 15th instant, and I now have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to convey to the United States Government an expression of the gratification experienced by His Majesty's Government in learning of their friendly disposition and willingness to help in finding a solution of the present difficult problems.

I am instructed to add that my Government are losing no time in ascertaining whether their principal Allies would be prepared to address to the United States Government an invitation to participate in one or other of the suggested forms of enquiry. I shall not fail to inform you in due course of the result of these enquiries.

Believe me [etc.] H. G. CHILTON

462.00 R 296/18 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, *October 22, 1923—noon.*

[Received 7:22 p.m.]

116. This morning I was informed in strictest confidence by the Minister for Foreign Affairs that the British Chargé had given him on Saturday a memorandum to the effect that the reparation question had been closely examined by the Imperial Conference and that everybody was deeply concerned over the seeming deadlock particularly because it was hoped that the abandonment of passive resistance would remove the hitherto existing insurmountable ob-

stacles to united action and become the occasion for new and untiring efforts to find a solution to the problem which could no longer be postponed; that while the Imperial Conference was considering this phase of the case there came a declaration by the President of the United States that our country rested on its proposal of last December; that it did not seem to the Government of Great Britain or to the Imperial Government either courteous or wise to ignore this renewed evidence on the part of the United States of good will and the desire to assist; they recognized, however, that it was extremely undesirable to assume any indication other than that implied by the words of the President. Accordingly the United States had been approached, and they were pleased to note that the United States continued to feel a deep interest in the economic situation which obtained in Europe and was prepared to render any practical assistance in the way of promoting the recuperation and reestablishment of economic stability, that although the United States emphatically repudiated any desire to have Germany relieved of its war responsibilities and just obligations the United States was quite willing to join in an economic conference participated in by all European allies principally concerned with reparations and Germany's capacity to pay and for elaborating a practical financial plan for obtaining payment. From the American point of view this conference should be advisory in character and its object should be to have appropriate recommendations made by an adequately informed and impartial group intent upon finding a solution to the difficult problems set before it on their merits. As an alternative the Government of the United States set forth that if it were deemed fitting that the proposed inquiry should be made by an advisory group designated by Applications [*Reparation?*] Commission to make recommendations it would be willing to have competent Americans participate therein. The Government of Great Britain did not deem it possible to ignore such a generous and helpful offer or to refrain from making it known to their Allies with the hope that the Allies would take careful note of the advantages to be obtained from the cooperation of the United States at this critical time. The Government of Great Britain believes that direct participation is so desirable and so likely to yield excellent results that it hopes that the first alternative will be preferred.

Fearing sudden negative reaction in France the Minister for Foreign Affairs at once instructed the Belgian Ambassador to state that the Government of Belgium deemed the matter worthy of the most careful consideration. However, he was unable to predict how the idea would be received in Paris.

FLETCHER

462.00 R 29/3142 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, *October 24, 1923—10 a.m.*

[Received 4:22 p.m.[26]]

420. L–19. I am confidentially advised by Meyer, the German Government's Paris reparation representative, that his Government will submit a note to the commission late today in which the commission will be asked to consider German reparation possibilities. The note will be based on a letter addressed to the German Government by the commission on January 26, last,[27] in which the commission declined to consider the German Government's request for an [inquiry?], on the general grounds that the action which the German Government had taken at that time in suspending payments and deliveries to Belgium and France made it impossible for the commission to take any action on the German request. The German note today will formally announce the purpose of the German Government to meet its reparation engagements up to the limit of its capacity; according to Meyer this proposal should clear the field for the resumption of consideration of the reparation plan by the commission. The note will also make favorable reference to the plan proposed by Belgium.[28] The Belgians filed today a long memorandum with the commission which had been received from the German Government containing the latter's conciliatory [remarks?] on the Belgian scheme.

Delacroix, the Belgian member, expressed some hope that the reparation question would be opened in the commission, an action which would tend to ease German internal position, but France occupies such a dominating position that I have serious doubts that he will be able to stand firm unless he receives strong support from the British and the Italians.

The Italian member of the commission has advised me of his Government's fears in regard to the internal situation in Germany, where bitter feeling is fast developing and a willingness to support Belgium's efforts is forcing consideration of the plan in the commission. The Italians, however, are in doubt regarding the real inten-

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[26] Telegram in four sections.

[27] Not printed.

[28] The Belgian reparation plan, a copy of which was transmitted to the Department by Mr. James A. Logan, Jr., American unofficial representative on the Reparation Commission, in a letter of June 15, 1923 (not printed), was not a plan to determine the total amount of Germany's reparation obligations, but was devoted entirely to suggesting sources of revenue which might be utilized for the annuities payable on reparation account (file no. 462.00 R 29/2845).

tions of the French and are convinced that Poincaré is actually committed to a policy of breaking up Germany.

Sir John Bradbury is now in London consulting the British Government. I feel that his personal inclination is that the situation be allowed to develop even to the point of the break-up of Germany, in the belief that the economic consequences will force France later to pass the hat and to accept dictation as to settlement. On the other hand, I know that there is much divergence of opinion in the British Cabinet and I have certain reasons for believing that Bradbury may be instructed to support Belgians and Italians in forcing the opening of a discussion on reparations settlement plan before the commission.

Poincaré's attitude remains unchanged, and he cannot fail to realize that the only result of the present line of conduct will be the break-up of Germany. On October 16 last the German Chargé here called on Poincaré and formally but in secrecy advised him that passive resistance had been suspended, and at the same time requested conversation with the French Government regarding the commencement of work in the Ruhr. Poincaré replied that such a request from the German Government was unnecessary and that the French alone would deal with this question with the German industrials. The Chargé then informed Poincaré that the German Government was prepared to make proposals to the Reparation Commission because it believed that this was what Poincaré wanted. Poincaré replied that such a course as proposed did not interest him; that it was premature to send a note to the commission; and that if Germany did so, he would instruct the French delegate to decline to discuss such proposals until the situation should be reestablished as it was on January 11. In addition Poincaré stated that he would prevent the commission from negotiating directly with the German Government.

The foregoing is the substance of the French and German communiqués concerning the discussion between the Chargé and Poincaré and makes obvious the entirely unreasonable policy followed by Poincaré if he actually expects reparation payments from Germany in the future.

The foregoing is admittedly the situation as it exists today. I feel that the most critical situation will develop on Friday morning, October 26, when the commission will determine the disposition of the German note. French observers close to Poincaré intimate that he and Barthou have stated more or less openly that they would put the German note "in the garage" in the same manner that they had the Belgian plan. If this should happen Friday I can foresee no other result but the break-up of Germany. On the other hand, I feel that the whole situation hangs in such a fine balance that

some mild expression of opinion from Washington might sway it in favor of a constructive line of action. There are ample premises for such an expression of opinion for, apart from the human suffering and the economic and social disturbances that are bound to result from the present French course of action, our own Berlin treaty and the army cost agreement are technically in jeopardy. On premises such as these we are in a position to act constructively in such a way as to appeal to the saner elements in Europe without running the danger of any important criticism. I realize that broad issues are involved which the Department must consider and which may make my suggestion impractical. The Department may rely on my maintaining complete silence here.

Should the Department give my suggestions favorable consideration, the following method would have additionally constructive results: (*a*) The Department immediately to advise the Belgian, British, French, and Italian Governments through diplomatic channels that the present situation in Germany is causing the Government of the United States great anxiety; that the break-up of Germany would jeopard seriously not only American interests but those of the whole of Europe; that the action of the Reparation Commission on Friday when taking the German plan under consideration will greatly influence the future course of financial rehabilitation in Germany, and that the Government of the United States hopes therefore that the Allied Governments will neglect no [proposal?] of negotiations which would have even the slightest chance of success; or (*b*) the Department to [issue?] a definite authoritative statement along lines similar to those proposed in (*a*), which I would be authorized to communicate to the Reparation Commission when the German plan comes up for consideration on Friday. The Department could rely upon my declining to be drawn into any ensuing discussion if I did not have specific instructions.

Suggestion (*a*) obviates publicity, but it has the disadvantage that the four Allied Governments will not have had time to digest it and to instruct their delegates on the commission before definite action has been taken in the commission, and irreparable injury has perhaps been done to Germany.

Suggestion (*b*) has the disadvantage that publicity can not be prevented, but it has the advantage that such publicity will in itself focus public opinion on the existing dangerous situation with the result that a serious study of the plan set forth in the German note would be rendered possible in the commission; in my judgment, this would have an important influence in preventing the dissolution of Germany.

Repeated by mail to London and Brussels today. Logan.

WHITEHOUSE

462.00 R 296/49a : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, *October 24, 1923—2 p.m.*

393. You will hold in strict confidence the following summary of a conversation between the French Chargé and the Secretary of State on Monday, October 22:

The Chargé stated that two days previously the British had approached the French Government with the suggestion that, in view of the press statement attributed to President Coolidge, the time was opportune to have an economic conference; that the Imperial Conference had had the reparation question under consideration and that it was believed that there existed an opportunity for common action; that it was thought that the declaration of President Coolidge that the Government of the United States rested on the proposal of last December should not be ignored; that in order that the attitude of American Government be not misunderstood the British Government had requested the Government of the United States for a statement of its position and had learned that it was willing to cooperate with the Allied Governments, either in a plan for a conference which would consider the reparation question or, were it thought more advisable, in a committee or other body appointed by the Reparation Commission.

The Chargé said that the Secretary was well aware that M. Poincaré had always been very much opposed to the idea which had been suggested by the Secretary for an inquiry by a commission of experts, chiefly for the reason that he believed that France, under the Treaty of Versailles, had certain rights, and it is of great importance that the treaty be maintained. Nevertheless, in spite of this attitude which he had held consistently all these months, M. Poincaré had not definitely rejected the British proposal; he had instead directed a verbal reply to be made that the British proposal would be considered and submitted to the Council of Ministers, which would meet on October 25. The Chargé said that M. Poincaré had instructed him to ascertain the Secretary's views, and, in particular, to find out if the proposal in question was made on the initiative of the British Government or on that of the United States.

The Secretary asked the Chargé whether the text stating the American position had been given the French Government. The Chargé replied that he did not think that it had, but that the position of the United States had been interpreted by the British Government.

The Secretary said that after President Coolidge at his press conference had made certain informal observations which were published in the newspapers, the British had inquired of the Secretary to ascer-

tain if Mr. Coolidge had been correctly reported and more definitely in regard to the willingness of the United States to participate in an inquiry on reparations along the lines which the Secretary had suggested last autumn and which were stated publicly in December in his New Haven address.

The Secretary said that he had answered the British inquiry in the same manner in which he would have answered an inquiry of similar nature from France or Belgium or Italy or from any other Government entitled to be informed. To avoid any possible misunderstanding, the Secretary had made a statement of the attitude of the Government of the United States that its position was the same as that which had been stated in December last year; that the United States felt a deep interest in the economic situation in Europe and thought that the present time peculiarly opportune to deal with the question, in view of the abandonment of passive resistance in the Ruhr and of the necessity to adopt some financial plan adequate to meet existing exigencies. The Secretary said that he had taken care to lay down certain conditions regarding American participation in an inquiry of the sort suggested. First, he had pointed out that there was no desire to relieve the German Government of its just obligations and that nothing should be done the effect of which would be to stimulate German resistance to the discharge of these obligations, but that there remained the question of Germany's capacity to pay and the means by which payments could be obtained. Next, the Secretary had pointed out that he believed such an inquiry should be advisory and that the Governments should be asked neither to abrogate their functions nor to accept decisions in advance but that a sincere effort should be made to deal with the serious questions now pending on their own merits and to have the best aid possible that could be obtained in reaching a solution. The Secretary then said that he had also referred to the question of the debts which were owed the United States, as he desired that there be no misapprehensions on that point. It was quite clear that sentiment in the United States did not favor cancellation of these debts and that any attempt to compel the United States to forego its claims in advance of a settlement of the reparation problem would be quite idle. The Secretary said that that was to begin at the wrong end; it was quite obvious that if Belgium and France and Italy were not indebted to the United States the question of what Germany could pay and the way in which the payments could be obtained would still remain. The Secretary laid emphasis on the point that the matter of these debts was not in the President's control nor were they the subject of agreements by the Secretary of State acting for the President; that they were in the control of Congress and that Con-

gress alone could deal with the question of terms; that whatever action Congress would take would depend on sentiment in the country, and that at this time there was no overpowering sentiment for cancellation. The Secretary said that in his New Haven speech last December he had expressed the views held on this subject and that that statement continued to represent the views held by the American Government. If, instead of attempting the futile task of obtaining the cancellation of the debts, the European Governments were to proceed to settle their financial matters and to adjust the reparation problem and to give reason to believe that there would be European cooperation in the interest of peace and a reduction of expenses which were unnecessary, a different feeling would be likely to exist in this country; although it was unlikely that there would be any willingness to cancel debts, yet terms, conditions and time of payment could be considered in such a way that consideration would be taken of the actual conditions of the European debtors in the light of what settlements were made. For the reason he had stated, the Secretary said, he could give no definite assurance in the matter. The first thing to do, he felt, would be to settle the reparation question in Europe. He had stated to the British Government that the Government of the United States would be willing to take part in an economic conference in which the Allied Governments chiefly concerned in reparations should participate for the purpose of considering the capacity of Germany to pay and the proper financial plan for obtaining payments. The Secretary had also stated that if it seemed advisable that the inquiry be conducted through a committee invited by the Reparation Commission, competent American citizens, he felt sure, could be found to serve on an advisory committee of that sort.

The Chargé said that M. Poincaré was particularly anxious to know whether the proposal was made on the initiative of the British Government or on that of the United States. The Secretary said that it was made on the initiative of the British, but that this should not lead to a misconception, for the British had been led evidently to take up the matter by the report of the President's interview in which the statement had been made that the Government of the United States was of the same view as expressed by the Secretary last December. It was in the light of this fact, the Secretary repeated, that the British made their request of the American Government and the American Government had thereupon defined its position; and while it might be said that this had been done on the initiative of the British, yet the suggestion had had its origin in the way the Secretary had stated.

The Chargé asked whether he might say that the United States supported the British proposal, adding that he would like to be able to say that. The Secretary replied that he gave his earnest support to the proposal that there should be an inquiry for the purposes and in the manner he had set forth; that he was not supporting the proposal as a British measure or because it was British; that it was he, last autumn, who had, in effect, made the proposal, and that it was now being taken up; that the Secretary's answer to the British was, as he had stated, the same that he would have made to the French or the Belgians; that the Government of the United States earnestly supported the proposal on its merits and the Secretary hoped that this would be stated strongly to M. Poincaré.

The Secretary then said that he desired to make use of the opportunity that the Chargé's inquiry had given him to stress the importance of making some adjustment at the present time. The situation in Germany was grave; what had been taking place in Bavaria was laden with the greatest difficulties;[29] if Germany was to pay reparations there must be a Germany to pay them and if the matter were allowed to go much further reparations would go into the discard and there would be none at all. The French would be left with the Ruhr in their hands and from this they might obtain some political security but no reparation payments, and even the matter of political security might be impermanent, for Germany might in time reunite.

The Secretary then said that he wished to take the liberty to make a few observations on the state of opinion in the United States. It was hardly necessary for him again to express his friendship for France and his desire that she should receive that to which she was justly entitled. Even on the controversial questions which had existed during the past few months opinion had been strongly preponderant in favor of France; but the Secretary desired to observe that opinion would change very quickly if the French, after having won their victory and broken down Germany's resistance, were unwilling to aid in the working out of a financial plan. In view of the conditions existing at present, of which the Secretary hoped M. Poincaré would take immediate advantage, it seemed to him there might soon exist a situation that would prevent absolutely the success of any financial plan.

The Chargé said that he had noted particularly what the Secretary had said about doing nothing to stimulate German resistance. He thought that that would be gratifying to M. Poincaré. The Secretary said he wished that to be understood; but, in view of what

[29] The Secretary was referring to the movement for the restoration of the monarchy in Bavaria.

had taken place in the last few days, while nothing should be done to promote Germany's resistance to the payment of her just obligations, still some hope ought to be held out so that her solidarity could be maintained; it was the Secretary's view that it was quite possible for the French to go too far. The Chargé said that France needed the reparation payments and that a very serious situation would exist in France if conditions should arise under which France would be unable to obtain reparation payments. The Secretary agreed that this was so and that he thought the situation most urgent.

The Chargé said that should M. Poincaré favorably entertain the proposal, he would probably accept the second alternative, that of having the Reparation Commission institute the inquiry through a committee of experts. The Secretary said that he did not see how it was possible to regard that course of action as inconsistent with the treaty, as the commission was permitted under the treaty to be advised in any way it chose. The Chargé said it was his understanding that Germany was going to bring up the whole subject before the commission and that might render it more easy for M. Poincaré to act in the matter.

I have instructed the Embassy in Great Britain to mail you copies of the memoranda exchanged with the British Government. These memoranda are sent to you in strictest confidence.

Repeat to Embassy in Italy as Department's no. 104 and to Belgium as no. 71.

HUGHES

462.00 R 29/3142 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

WASHINGTON, *October 25, 1923—11 a.m.*

397. Your 420 of October 24. You and Logan should lose no opportunity to make it clear that the present European situation is causing great anxiety; that it is deemed most important to adopt at once an adequate financial plan based upon the capacity of Germany to pay.

Both you and Logan may indicate informally but earnestly that now that the French Government has maintained its position and passive resistance has been abandoned, it appears that the time has come for a constructive financial policy. To overcome German resistance to payment of just obligations is one thing; to push matters to a point of disintegration where hope of adequate reparation payments will be destroyed is quite another, and in the long run will

prove a futile reliance for French security. Germany's application to the Reparation Commission which can at once undertake an appropriate survey affords an opportunity to call in an advisory body to inquire into Germany's capacity to pay and the best methods of obtaining payment.

Inasmuch as the United States is not represented on the Reparation Commission it is not the Department's intention that Logan make any statement of the foregoing which would be placed upon the commission's records.

You may show Logan Department's no. 393, October 24, 2 p.m., and the text of the Department's communication which the Embassy in Great Britain was instructed to transmit to you by mail.

HUGHES

462.00 R 296/27½

Memorandum by the Secretary of State of a Conversation with the French Chargé (Laboulaye), October 26, 1923

Mr. de Laboulaye said that he had been directed by his Government to inform the Secretary of the reply which the French Government had made to the invitation of the British Government with respect to reparations. It was to the effect that the French Government desired the cooperation of the American Government and had been concerned with the appropriate procedure. The suggestion by the Secretary that American citizens might take part in such a procedure was made visible by the Secretary's recent statement. The French Government had always desired to keep within the limits of the Treaty of Versailles, but that under that Treaty, paragraph 7, Annex II, Part VIII, the Reparation Commission could designate a committee of experts to give their advice and they could ask the cooperation of American experts. The German Government had asked the Reparation Commission to make an inquiry under Article 234 of the Treaty of Versailles and the Reparation Commission was now considering the German proposals. They had also had before them a Belgian plan. It was possible for the Reparation Commission in considering the German request to ask for the advice of experts.

Mr. de Laboulaye in stating the above read from a memorandum but did not leave a memorandum with the Secretary. The Secretary said he had made his position clear in the *aide-mémoire* which had been delivered to the British Embassy and which had been published in the press.[30]

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[30] *Aide-mémoire* of Oct. 15, p. 70.

462.00 R 296/24 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, *October 26, 1923—noon.*

[Received 12:23 p.m.]

125. I have been informed by the Minister for Foreign Affairs that Belgium notified Great Britain that it will accept the second alternative British proposal. Also, that France will accept second alternative without restriction.

FLETCHER

462.00 R 296/28 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, *October 26, 1923—6 p.m.*

[Received 10:01 p.m.[31]]

428. Although a semi-official communiqué was issued here this noon advising that France had already informed the Department that it accepted the formation of a committee of experts containing an American representative I deemed it advisable to give Peretti [32] this afternoon the gist of Department's cable 397 dated October 25, 11 a. m. As a reply he read to me the instructions which were sent to the French Ambassador in Great Britain yesterday. These were similar to the ones sent to the French Chargé in the United States to be conveyed to you. He made no allusion to the interview which Laboulaye had with you. Of course, I said nothing. However, he stressed the fact that they had accepted Department's alternative suggestion for a commission of experts to work under the auspices of the Reparation Commission. He added that this was not what Great Britain wanted as they desired a broad commission of inquiry which would practically supersede the Reparation Commission. In order to show the powers of the Reparation Commission he quoted from the Treaty of Versailles. From the manner in which he spoke I have my fears that there may be some difficulty regarding the terms of reference to the commission of experts and that they may not be given the unlimited scope needed for satisfactory results to come from their labors.

. . . . . .

WHITEHOUSE

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[31] Telegram in two sections.

[32] E. M. J. de Peretti della Rocca, Director of Political and Commercial Affairs, French Ministry of Foreign Affairs.

462.00 R 296/39

The French Chargé (Laboulaye) to the Secretary of State

[Translation]

AIDE-MÉMOIRE

In the answer returned by the French Government to the British Government as to the appointment of committees of experts, reference is made to paragraph 7 of annex II to part VIII of the Treaty of Versailles, which makes it possible to appoint such committees.

Paragraph 9 of that Annex also enables the Commission to hear any evidence and arguments offered by Germany on any question connected with her capacity to pay. That paragraph is an interpretation of that part of Article 234 which says that the Reparations Commission shall from time to time consider the resources and capacity of Germany, *and after giving her representatives a just opportunity to be heard, shall have etc.* . . .

It appears from the foregoing that Germany is not to be represented on the committees of experts but that she may be heard by them and offer every argument in writing which need not be of German origin as it may be neutral or even allied. The experts or groups of experts cannot in any case encroach upon the powers of the Reparation Commission, which are determined by Article 234: it alone may: "extend the date and modify the form of payments such as are to be provided for in accordance with Article 233".

Article 233 provides that in case Germany should fail to discharge her obligations in accordance with the schedule of payments drawn up by the Commission, any balance remaining unpaid may, within the discretion of the Commission, be postponed for settlement in subsequent years.

But the powers of the Commission go no further. It may not cancel any part (Article 234) except with the specific authority of the several governments represented upon the Commission; in addition, as provided by the last part of Article 233 the settlement of any unpaid balance may form the subject of different treatment under such conditions as may be fixed by the Allied Governments; that is to say again that although the Reparations Commission has the right to carry those balances over, it may not cancel any part thereof, as that action is determined by the Allied and Associated Governments.

It appears from those texts that while the Reparations Commission may decide as to the form of payments of the German debt, extend the date of such payments, or modify the form thereof, it cannot cancel any part whatsoever as remissions can only be granted by the unanimous action of the creditor powers.

France will not agree to a reconsideration of the amount of the debt as fixed on May 1, 1921, and will not acquiesce in any remission in the amount of Germany's obligations as fixed by the Reparations Commission on May 1, 1921.

WASHINGTON, *October 29, 1923.*

462.00 R 296/38½

Memorandum by the Secretary of State of a Conversation with the Counselor of the Italian Embassy (Rosso), October 29, 1923

Mr. Rosso said that he had been instructed by Mr. Mussolini to say that the Italian Government had answered the British to the effect that they were willing to have an expert inquiry, as suggested by the Secretary. Mr. Rosso did not leave a memorandum, but stated in general terms the acceptance of the Italian Government without indicating any particular reservations. He also expressed his Government's appreciation of the Secretary's willingness to cooperate.

462.00 R 296/28½

Memorandum by the Secretary of State of a Conversation with the French Chargé (Laboulaye), October 31, 1923

Reparations.—M. de Laboulaye said that he had informed M. Poincaré of his last interview with the Secretary and M. Poincaré seemed to feel that there might be some misunderstanding and that the Secretary might have changed his position to some extent. When M. de Laboulaye first came in (October 26) he had said that M. Poincaré desired to act under the provisions of the Treaty of Versailles, and that the Secretary had acquiesced in that position, but M. Poincaré had some misgivings as a result of what the Secretary had said in his last interview.

The Secretary said that he did not see that there was any basis for misunderstanding. He reminded M. de Laboulaye that he did not yet have the text of the French reply to the communication of the British Government; that M. de Laboulaye had given orally to the Secretary what was understood to be the substance of that reply; that the Secretary understood that M. Poincaré desired to have the committee of experts constituted through the Reparation Commission under paragraph 7 of Annex II, of Part VIII, of the Treaty of Versailles. The Secretary had not objected to this as this would give opportunity for a full inquiry. The Secretary said that it had been well understood from the start that the rights of France under

the Treaty could not be changed without her consent; that this was an obvious fact which it seemed hardly necessary to emphasize. On October 29 M. de Laboulaye had given the Secretary an *aide-mémoire* in which there were references to Article 234 and Article 233 of the Treaty. The Secretary understood perfectly that the Reparation Commission under Article 234 could not cancel any part of the obligations of the German Government except with the specific authority of the Governments represented on the Commission, that is, without the consent of France. It was hardly necessary to go into this as it was apparent that any financial plan that might be recommended by the committee of experts could not affect any rights of France without her consent, but the last sentence of the French *aide-mémoire* of October 29 had given rise to a question because it was stated that France would not accept a revision of the amount of the German obligations. If M. Poincaré meant by this that the inquiry of the experts should be limited so that they could not consider comprehensively Germany's capacity to make reparation payments, the inquiry would be abortive. If, for example, when the experts met together and took up the question of the total amount that Germany could pay and the manner in which the payments of that amount could be secured, the French expert were to take the position that the committee of experts had no power to consider what was the total capacity of Germany to pay the inquiry would be ended and we should all be made a laughing stock. It was one thing for France to have the right to accept or reject recommendations that might be made by the experts; it would be a far different matter, however, if France restricted the inquiry so that it could not have the scope which the Secretary had proposed. This was what the Secretary meant when he said in his last interview with M. de Laboulaye that he hoped that M. Poincaré would put no unnecessary obstacle in the way of obtaining reparation payments; that no reparation payments were now being made and if matters went on as at present there would not be any reparations; and that while France, of course, had her treaty rights and even if they took a position which involved the ruin of all Europe they would still have their treaty rights; it would be a different thing to block an inquiry by which a proper financial plan could be developed.

M. de Laboulaye said that he did not think that M. Poincaré intended to limit the inquiry, but he had desired to proceed under the Treaty and he feared that the Secretary might have changed his mind upon that matter. The Secretary said that he had not changed his mind; that the Reparation Commission had full author-

ity to deal with the question of the total amount of Germany's obligations and to recommend a reduction if they thought it advisable; that this appeared clear from paragraph 13, of Annex II, of Chapter [*Part*] VIII, which provided the rules as to voting in the Commission. It was stated that unanimity in voting was necessary on "the cancellation of the whole or any part of the debt or obligations of Germany." Of course, this inquiry as to unanimous vote would be unnecessary if the Reparation Commission could not vote at all; this clearly showed that the matter could be brought to a vote in the Commission, although no cancellation of the whole or part of the obligations of Germany could be made without a unanimous vote. As the question could be brought to vote, of course the Reparation Commission could consider recommendations; there would be nothing to vote on if there was not a proposal; and if the matter could be brought up in the Reparation Commission by a proposal, of course the Reparation Commission could inform itself fully through a committee of experts, so that a financial plan which could be properly passed upon by the Commission could be formulated.

M. de Laboulaye said that he thought M. Poincaré had the same idea, and that he did not intend to restrict the inquiry of the experts. M. de Laboulaye said that he had understood that what the Secretary desired was to have the experts consider the capacity of Germany to make reparation payments and a financial plan for the purpose of securing such payments as the Secretary had said in his communication, and that he did not understand that M. Poincaré intended to limit the inquiry.

The Secretary said he was glad to be assured of this, as a limitation upon the inquiry would be disastrous and it should be understood that when the French expert took part in the inquiry he would not block the consideration of all the questions that were involved in determining Germany's capacity to make reparation payments. The Secretary said that he supposed if a financial plan were developed by the experts and presented for consideratiton it would be considered on its merits; that M. Poincaré, as a reasonable man, would consider what was brought up fairly and, while the French Government had the right to give or withhold its consent, it would act in a reasonable manner upon the proposition that might be submitted. The Secretary had understood, of course, that the French Government would not bind itself in advance, but if we were ever to get out of the present serious situation some financial plan must be developed.

462.00 R 296/47 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, *November 2, 1923—2 p.m.*

[Received 6:45 p.m.]

130. I am informed by the Minister for Foreign Affairs that Belgium on October 31 informed Great Britain that it accepts the text of the joint invitation proposed by Great Britain to be sent to the United States regarding expert commission. He said that this action was taken without consultation with France. Poincaré, he said, was not satisfied with the text, and wished to limit the inquiry to Germany's present capacity to pay, etc. . . . Jaspar says he intends to stand firm because he thinks the limited inquiry which Poincaré desires is useless.

FLETCHER

462.00 R 296/59b : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *November 6, 1923—3 p.m.*

409. Jusserand's conversation yesterday afternoon stated following limitations on inquiry proposed by Poincaré:

First. That inquiry should be limited to present capacity to pay or capacity "within a brief period." I asked what was meant by "brief period". Jusserand did not know. Subsequently Jusserand suggested, in emphasizing important range permitted for inquiry, that experts could take up the entire schedule of payments. I asked whether that was qualified by a limitation of inquiry to capacity to pay within a brief period. To this Jusserand could make no satisfactory reply. I finally told him on this point that I was unable to define what M. Poincaré meant by his limitation: that it was understood of course that treaty rights could not be changed without the consent of the parties and that the inquiry should be wholly advisory and within the scheme of the Treaty, and that if M. Poincaré intended to suggest a limitation upon such an inquiry it should be clearly defined.

Second. Jusserand said that the total amount of Germany's obligations was fixed and could not be changed without the consent of France and that there could be no consent to the experts recommending a reduction of the total. I answered, repeating that treaty rights could not be changed without the consent of France and that I saw no harm in permitting recommendations but that this question was not as serious as the limitation of the inquiry by reference to the capacity to pay within a brief period.

Third. Jusserand said that the inquiry could not deal with the occupation of the Ruhr. I said that it was not that the experts should deal with the question of the legality of the occupation or

with the mere political questions involved but that if it was intended to restrict an inquiry with respect to production in the Ruhr, such restriction would be very serious. The question of the capacity to pay was in substance a question of Germany's productivity and it was quite impossible to consider the capacity of Germany to produce without taking into account production in the Ruhr.

Jusserand is to ask Poincaré for an explication of his attitude. I explained that the United States Government was merely desirous of cooperating in a practicable manner; that it was not the intention to deprive France of payments which she would otherwise be able to get; that apparently there were no reparation payments in sight and there would be none if Germany disintegrated; that even security would not be assured in that event as there might be German unity in the future and France would lose both reparations and security. I pressed Jusserand to know whether M. Poincaré had any economic program and he was unable to state. He continuously stressed the injuries which France had sustained and I dwelt upon the present situation and the importance of some constructive effort. I emphasized the importance in the interest of France herself that this inquiry which seemed the only avenue of hope should not be thwarted.

Repeat to London 330 and Brussels 77.

HUGHES

462.00 R 296/60½

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), November 7, 1923

Reparations Inquiry.—The Ambassador called to give M. Poincaré's response to the Secretary's request that he should clarify the limitations that he desired to impose upon the expert inquiry. The Ambassador stated in the first place that M. Poincaré thought the Secretary had given too dark a picture of conditions in Germany; that the Germans were disposed to exaggerate their difficulties in order to escape the payment of reparations; that it was not thought that the situation was so critical with regard to the means at their command as, for example, with respect to their supplies of food. It was, however, admitted that there was a serious condition in Germany.

Replying specifically, the Ambassador said that M. Poincaré meant by his limitation as to the Ruhr that the experts might make inquiry in this region the same as on the left bank of the Rhine provided they observed the clauses of the Treaty. The Secretary said he did not understand this. Were the experts to be allowed to consider the economic questions relating to productivity in the Ruhr? The ques-

tion of production was the essential one. What did M. Poincaré propose with respect to inquiry into conditions of productivity? The Ambassador said that he could not answer that question specifically, but that he would inquire. M. Poincaré had taken a definite position and the Ambassador did not feel that he could go beyond the terms of his instructions. The Ambassador then referred to the paper from which he was reading, (he left no copy or memorandum of this) and said that the experts "could not consider the legality of the occupation nor the system of collection of taxes established by the French nor the guaranties which had been seized nor the agreement with the industrialists." The Secretary asked what agreement had been made with the industrialists. The Ambassador said that he did not know but that it could not be touched. The Secretary asked what was meant by "guaranties seized." The Ambassador said that it was difficult to translate into English; that the French was "gage"; for example, it might refer to a mine that had been taken. The Secretary suggested that the equivalent in English might be "properties seized as security." The Ambassador said he thought that was a correct translation.

With respect to German capacity to pay and the intent of M. Poincaré's limitation as to examination of "present capacity" or "for a brief period", the Ambassador said that the examination of the experts was not to go beyond the year 1930 and that in M. Poincaré's opinion it would probably be necessary before the expiration of that period to have another inquiry. The Secretary said that he understood from that statement that M. Poincaré proposed that any question as to capacity of Germany to pay after 1930 was barred. The Ambassador replied that the experts could examine the balance sheet of German resources, internal and external, including capital in foreign banks, how these resources could be utilized and how Germany could reestablish her financial situation, but repeated that the examination by experts of Germany's capacity to pay was not to go beyond the year 1930.

The Secretary said that he would lay M. Poincaré's reply before the President, but that the Secretary had no hesitation in expressing his personal opinion that the limitation proposed by M. Poincaré would render the inquiry futile for the purpose for which it was designed. The Ambassador said that the period allowed by M. Poincaré was longer than the Ambassador had supposed he would allow. The Secretary said that, on the other hand, he was disappointed. The Ambassador said that M. Poincaré had mentioned this period because it was the period to which reference was made in sub-division (*c*) of paragraph 13 of Annex II of Part VIII of the Treaty. The Secretary said that whatever M. Poincaré's reason may

have been he imposed a limitation which would defeat the proposal of the inquiry to establish an appropriate financial plan. The Ambassador said that if Germany came back to normal conditions another inquiry would be needed. The Secretary said the point was to restore normal conditions and this required an adequate plan and it would not seem to be appropriate merely to take the periods of great difficulty and make no arrangements for a period that could be considered normal; that this would defeat the very proposal of creating conditions now which would permit recuperation. The Secretary said that while, of course, France must judge of her own interests, he could not refrain from venturing the personal opinion that M. Poincaré was taking a very serious responsibility. This Government was not standing in the way of France securing reparations but there were none in sight; that Germany must be able to resume production; that for this purpose there must be such a settlement as would permit credits, importation of necessary foodstuffs, raw materials, and the element of hope which would permit industry to go forward.

The Ambassador asked what period the Secretary would suggest that the inquiry should cover. The Secretary said that he did not desire any limitation imposed other than those which he himself had suggested, to wit: that the inquiry should be an advisory one; that no Government should be required to surrender in advance any of its rights under the Treaty and could retain fully its rights and accept or reject such plan as might be proposed. The idea of the Secretary was that the French expert could sit with the other experts and they would try to develop a plan which was adequate to meet the exigency. If the plan was a good one, it would go on its merits; if it were not, objection could be taken to it. So long as the inquiry was advisory and the governments were not required to make any commitment in advance which would relinquish their rights under the Treaty there was no reason, so far as the Secretary could see, to hamper the inquiry of the experts, but if M. Poincaré desired to limit the inquiry, it was important that he should point out exactly what limitation he desired. This was the object of the Secretary's inquiry which M. Poincaré had answered and, in view of his answer, the Secretary was bound to say that he thought the restrictions would make the inquiry futile.

The Ambassador said he would communicate again with M. Poincaré. The Secretary said that there would be most insistent demands from the press to know the nature of M. Poincaré's reply and he asked whether he was at liberty to give the substance of it. (The Secretary had taken down the chief points in the presence of the Ambassador.) The Ambassador said he would prefer that

no statements should be made until a definite result had been reached. The Secretary said he would immediately consult the President and he felt that a definite result could be stated, on the basis of what M. Poincaré had said, in a very few minutes. The Ambassador said he would like to communicate with M. Poincaré again and asked that the Secretary postpone making any statement until he had received further word. He said he would communicate with M. Poincaré immediately.

Later. The Secretary then consulted the President, who took the same view of the matter as the Secretary had taken, and, thereupon, the same afternoon, the Secretary called up the French Ambassador and told him of the President's views, confirming what the Secretary had already said.

462.00 R 296/62½

Memorandum by the Secretary of State of a Conversation with the British Chargé (Chilton), November 9, 1923

Mr. Chilton called as the French Ambassador was leaving. The Secretary informed Mr. Chilton of what had taken place in the interview with the French Ambassador. (See memorandum this date).[33]

Mr. Chilton asked whether that meant there would be an end to the whole matter. The Secretary said he made no observations except to inform Mr. Chilton of exactly what had taken place. He had nothing to add to it.

462.00 R 296/72a : Telegram

The Secretary of State to the Ambassador in France (Herrick)[34]

WASHINGTON, *November 9, 1923—6 p.m.*

414. Jusserand today made further statement with respect to limitations which Poincaré desired in proposed reparation inquiry, as follows:

Jusserand said that he understood that France was not isolated and that Belgium was standing with her.

That Poincaré felt that the period of seven years was as far as the inquiry should go.

That with respect to the Ruhr, the experts would be free to calculate resources, the value of establishments and industrial plants and productive power; and that such an inquiry would be quite useful.

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[33] Not printed; Department's telegram no. 414, Nov. 9, to France, printed *infra*, summarizes the memorandum.

[34] The same telegram was sent, with omission of last sentence, to the Ambassador in Great Britain as no. 332 and to the Ambassador in Belgium as no. 78.

I said that I understood that Poincaré insisted that the examination of the experts should not go beyond the year 1930. Jusserand said that this was correct. I asked whether with respect to the Ruhr Poincaré still held as stated by Jusserand at last interview, that the experts could not consider legality of occupation, nor system of collection of taxes established by the French, nor the guaranties seized, nor the agreement with industrials. The Ambassador said that this was correct. I then said that in communication to the British of October 15th, in which the attitude of the United States Government was fully set forth, it was stated that present conditions made it imperative that a suitable financial plan should be evolved to prevent economic disaster in Europe, that it was with this object that an expert inquiry had been suggested with respect to the crucial question of reparations; that the purpose was to consider the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments; that the inquiry was to be wholly advisory and none of the governments was to be required to commit itself in advance, the object being to secure appropriate recommendations. I said that the question was not whether an inquiry with the limitations upon which Poincaré insisted would be useful for any purpose, but whether it would serve the purpose in view, that is, to aid in the development of a suitable plan which would permit economic recuperation in Europe.

I told Jusserand that in the opinion of this Government the limitations insisted upon by Poincaré would frustrate the purpose of the inquiry suggested in my communication of October 15th.

Have stated the substance of above to the press.

Repeat to Rome as Department's 112.

HUGHES

462.00 R 296/66 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *November 10, 1923—7 p.m.*
[Received November 11—2 : 10 p.m.[35]]

460. Following is translation of a letter just received from Poincaré.

"I was about to request you to come once more to speak with me concerning the question of convening a committee of experts to study the German situation when I read in this morning's newspapers that your Government had taken a decision in the matter declaring that an inquiry by a committee of experts which took into consideration Germany's capacity to pay only during a period terminating at the end of 1930 would be a vain endeavor and without any use whatever.

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[35] Telegram in two sections.

I wish to emphasize at once how much I regret that in spite of the very complete and in my opinion very precise explanations which I gave to our Ambassador at Washington and which were exposed to you by me and my collaborators the United States Government should not have been disposed to take part in the investigations of a committee of experts whose duty it would be to study Germany's capacity to pay for a limited period. You have well understood that it was impossible for me to go beyond limits fixed by the treaty of peace and you have read the communiqué which I had published in the press yesterday to make our position clear. In specifying a period of six years I had gone to the farthest limit permitted by the treaty but in my opinion the experts could not even see as far ahead as that. I consider in fact that the present situation of Germany does not permit anything but the evaluation of her present capacity, that is to say the evaluation of capital, riches, resources as stated in the treaty which she possesses abroad as well as within her frontiers, resources which we all know are dissimulated and hidden, and then the study of the manner in which a part of these resources can be transferred to the account of reparations without preventing Germany from emerging from the situation in which she has voluntarily placed herself.

There again the experts would have had to give to Germany absolutely precise instructions upon the reforms necessary in order to reestablish her financial situation and stabilize her exchange. That task alone appears formidable to me. The Reparations Commission has in vain attempted to accomplish this during the past five years. She [*It?*] has constantly run up against the ill will of the German Government which has never shown it any but falsified statistics. To eradicate [*sic*] a plan of payment even for six years when it concerns a country which possesses neither credit nor money is in my opinion absolutely vain; on the contrary if Germany made the effort which we all expect of her and if the experts had a task to dictate to her, if her currency found once more a purchasing power abroad, and if Germany could once more find credit after having brought about at home the necessary reforms, it would be easy to prepare a plan of payment covering a relatively extended period for one would have a basis upon which to work; it is that basis which is absolutely missing at the present moment.

But the American Government does not even accept this period of six years which I myself consider impossible to attain; what does it wish then? To evaluate the total capacity of Germany to pay for an indefinite period is equivalent to diminishing the total sum due by Germany for reparations in [*by?*] indulging in calculations which rest upon absolutely no basis and contrary to the wishes so squarely and so friendly affirmed to M. Jusserand by Mr. Hughes himself.

You know that I share your desire to see established between the United States and Europe and particularly France close cooperation. We are profoundly touched by the sincere friendship of which you have given us so many proofs; we know your acute sense of political necessity as much American as French. I have done all I can to respond to those sentiments. I wish that you could be convinced thereof and I hope that you may convince President Coolidge and the Secretary of State. I know that they are animated towards

France with the same sentiments of affection as you [yourself.] And I have not lost hope of seeing the day arrive when they will realize that we have no other object in maintaining peace in Europe but to lead it to this economic development which the United States themselves desire."

My 459, November 10, noon.[36] The Foreign Office informs me that it has just received a telegram from Jusserand stating that negotiations with you regarding commission of experts were at an end.

HERRICK

462.00 R 296/66 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *November 12, 1923—6 p.m.*

415. Your 459, November 10, noon,[36] and 460, November 10, 7 p.m. I stated in Departments 414, November 9, 6 p.m., the exact results of negotiations. Nothing has been done since. Negotiations have ended only in the sense that I told Jusserand that in the opinion of this Government the limitations insisted upon by Poincaré would frustrate the purpose of the inquiry suggested in my communication of October 15th.

It should be borne in mind that question arose over scope of invitation proposed to be extended for American participation in inquiry of experts. While the terms of this invitation were under consideration by Allies, Jusserand was instructed to advise me of limitations imposed by Poincaré. When these were defined I stated our position as above.

It is not desired that you should go into any diffuse discussion orally or in writing which would obscure situation now well understood by public. In this view I think it best to make a brief answer to Poincaré's letter and avoid any invitation to controversial correspondence.

Accordingly you may answer Poincaré's letter, as follows:

"I have not failed to inform my Government of your letter of blank date and I am directed to reply that the position of my Government, as stated in the *Aide-Memoire* handed to the British Embassy at Washington on October 15th in reply to their communication, and since published and made available to your Government, remains unchanged. This position has been re-stated in the conversations which have taken place between the Secretary of State and Ambassador Jusserand.

It was made clear that the proposed inquiry was to be wholly advisory and that no government was to be asked to make commitments in advance but would be free to accept or reject the recommen-

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[36] Not printed.

dations which might follow the inquiry. With this understanding, my Government has hoped that the experts would be left free to develop for the consideration of the respective governments a comprehensive financial plan with respect to reparations which might aid in averting economic disaster and in re-establishing the essential conditions of European peace and economic restoration. The experts themselves would be in a position to judge of the practicable extent of such a plan and any recommendation they might make could be considered on its merits.

My Government has regretfully been compelled to reach the conclusion that the limitations which you have proposed with respect to the inquiry would frustrate this purpose, and this was the opinion expressed to Ambassador Jusserand. I can assure you that your friendly sentiments are most cordially reciprocated.

Accept, Sir, etc. etc."

HUGHES

462.00 R 296/87 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *November 28, 1923—4 p.m.*

[Received November 29—12:26 a.m.[38]]

481. L–40. 1. The following draft resolution has just been handed to me by Barthou [39] who proposes to present it to the commission on Friday.[40]

"In accordance with the provisions of article 234 of the Treaty of Versailles, with a view to studying the resources and capacity of Germany, and after having given their countries' replies a just opportunity to be heard, the Reparation Commission decides to create two committees of experts chosen exclusively among the Allied and Associated Powers.

One of these committees would be charged with seeking means of balancing Germany's budget and measures to be taken in order to stabilize its currency.

The duty of the other would be to try to find means of estimating the capital which has escaped from Germany and forcing this capital to return."

2. Barthou approached me informally in regard to the representation of the United States on the proposed committees. I told him I had no authority to discuss the matter. Also that it seemed to have been covered by the recent negotiations in Washington. I did, however, express my willingness to cable the Department informally and unofficially such views as the Reparation Commission cared to offer. I asked, in order to prevent the possibility of a misunder-

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[38] Telegram in five sections.

[39] Louis Barthou, French representative on the Reparation Commission.

[40] Text of resolution not paraphrased.

standing, that the views be put in writing. I have just received the following letter from the Reparation Commission.[41]

"I wish to tell you again how much the presence of American experts on the proposed committees would be valued by French opinion—it desires and it awaits it. The Government with the unanimous approval of the Chamber gave a significant manifestation on Friday last in favor of the union of the Allies. The sacrifices consented to by France to realize this union deserve the most serious attention of the American Government. The formula which I communicated to you is only the exact application of the treaty itself. Whatever may be the opinions of the experts these will be expressed in a consultative capacity only and they will not bind the Reparation Commission where your position will remain entirely untrammeled. But the designation which you might consent to make of one or of several American experts for the task which I spoke to you about would have the happiest effects on the solution of the reparation problem. We are in an hour of relaxation and the atmosphere is favorable. You know how earnest are my hopes of seeing Bradbury accept this formula which he and I have already discussed. With the designation of one or more American experts the chances of success will be decisive. Excuse me for insisting. Am writing you as French delegate but I assure you that the peace of the world enters to the highest degree into my preoccupation. Signed, Louis Barthou."

. . . . . .

3. Bradbury who is now in England has telephoned that his Government is impressed with the possibility of reaching a practical result under the Barthou formula. He is ready to support it provided (1) American members participate therein and (2) if Americans participate it will be understood that the Reparation Commission is acting solely on its own responsibility, Great Britain reserving the right to take any action deemed necessary independently of Reparation Commission if events so warrant. Bradbury says that Great Britain is about to request through diplomatic channels the sympathetic support of the United States.

4. Terms of reference to the first committee under Barthou formula are exceptionally broad. Barthou [*Bradbury?*] is prepared to support Barthou formula provided he has some definite assurance from Barthou as to the scope of the inquiry. Bradbury and I were advised by Delacroix that he would not attempt to limit the scope of the inquiry of the committee. He did not believe that the French representative could join in a proposition to reduce the capital reparation charge. Barthou said that he had given this to Delacroix and Bradbury as his confidential and definite assurance. It was his hope that this would prevent any debate on this feature when the

[41] Text of letter not paraphrased.

commission meets next Sunday. Any debate on this feature would so far as French internal politics are concerned make the position of Barthou and Poincaré impossible. This informal assurance is satisfactory to Bradbury who is acting accordingly.

5. Delacroix has just written me as follows:[42]

"I wish to insist in the interest of peace and of a definitive agreement that an authorized American agree to sit on the committee of experts. I am strongly convinced that, in view of the tendency to secret methods and the present dispositions of the various governments, the committee of experts will prosecute its work to a successful conclusion and that its opinion will have an enormous influence in the *rapprochement* of the various points of view, but it is well understood that the Reparation Commission will not be bound by this opinion and the governments even less; it will only be an opinion the responsibility for which will devolve solely upon its signatories."

6. I have been advised informally by the Italian delegate that he will support the Barthou formula under the following conditions, namely, that Belgium, France, and Great Britain are in agreement, and that American representation is highly necessary if committee is actually set up.

7. I fully appreciate the difficulties of the United States, considering the failure of the Washington negotiations in the matter of expert committee. Conditions here are tense. . . .

8. Four courses it seems to me are open to the Department.

(1) To let commission know that Department will not send any representatives on general grounds that terms for proposed committees do not meet conditions announced by the United States at the time of the failure of the recent Washington negotiations (while the formula proposed by the representative of France together with his confidential assurances—see paragraph above—largely cover the difficulties heretofore experienced in the Washington negotiations, the confidential assurances of the representative of France cannot be given to the public).

(2) To accept the invitation and name representatives. This course would probably have to be abandoned on premises set forth in (1) above.

(3) To pick out certain qualified Americans and allow me confidentially and informally to suggest their names to the delegates. Then the commission could formally invite them to become a part of the committees. In this way the American representatives would have no official connection with the Government of the United States.

(4) To permit me informally to notify the commission that although our Government can take neither official cognizance of the

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[42] Text of letter not paraphrased.

proposal nor suggest the names of Americans to be designated by the Reparation Commission, it would not object were the commission in its discretion to obtain the attendance of any Americans which it might choose on its invitation.

9. Please instruct me as soon as possible regarding any action I am to take. The question will be raised very shortly in the commission, and I believe it desirable that I make clear informally our Government's attitude before the commission acts on the committee question. Logan.

HERRICK

462.00 R 296/87 : Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *November 30, 1923—8 p.m.*

436. This is for you and Logan and is in reply to your 481, November 28, 4 p. m., L–40, and your 482, November 29, 4 p. m.[43]

Department must have clear understanding of the precise situation. This Government cannot commit itself on indefinite proposals.

1. Department has received nothing from Poincaré since time of Secretary's last conversation with Jusserand. Refer to Department's 414 dated November 9. We cannot regard Barthou's statements as changing attitude of Poincaré since they appear to be vague, personal, and informal. If the French Government wishes in a confidential way to inform us of the proposed enlarged scope of inquiry, it could do so in the same way it informed us of the limitations which Poincaré intended to propose.

2. Department has heard nothing from the British Government. The last information we had from Harvey indicated that consideration of French proposal would be postponed until the British elections were over.

3. This Government has no invitation of any kind before it.

4. Two questions seem obvious. First, what precisely is the proposal? Second, what can be done in view of it? The Department cannot answer question two until question one is answered.

5. From the practical standpoint it would be difficult to proceed under an undefined secret authority. Naturally, experts want to know the extent of their authority, and if important American men were to take part in such an inquiry, obviously they must know what the inquiry was about before giving their consent.

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[43] Latter not printed.

6. Refer to Logan's suggestions in his L–40, paragraphs 7 and 8. It would be impracticable to have American experts confidentially named without the support of the Government of the United States. They would not lend their services without the approval of this Government. Knowledge of that fact could not be concealed from the public. In any case this Government did not intend to designate technical experts to make the inquiry. It merely intended that if invitations were issued to American experts it would indicate its acquiescence in the acceptance of these invitations. Before any plan could be put into effect the matter of the invitations would necessarily have to be considered by the Department.

7. The question that must be met is whether Americans are to participate in the inquiry or not. This must be decided from the point of view of Poincaré's last statements to the Department. These were oral but definite and have not been modified or withdrawn.

8. Apparently Department has nothing upon which it can act. Obviously other Governments or their members on the Reparation Commission cannot expect this Government to give its acquiescence, when all it has before it is some vague whispered suggestion. We are unable to state our position until the respective Governments or the Reparation Commission have defined their position and have developed some plan which we can intelligently appreciate.

PHILLIPS

462.00 R 296/95

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *December 6, 1923—3 p.m.*

[Received 3:30 p.m.[44]]

496. L–44. In reply to your 436 [45] I desire to invite your attention to the following considerations. Refer to paragraphs 1, 2, and 7. The reason why you received no information from the French Foreign Office was that the present committee proposal was intended to be a new and independent proposal coming from the commission itself acting in accordance with sovereign powers delegated by article 234, hence the conversations were conducted between the commission and the several governments directly and not between any two or more governments. This is the reason why France has not communicated with you. Nor has France communicated with Great Britain.

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[44] Telegram in four sections.
[45] *Supra.*

Refer to your third paragraph. Formal invitations have not been transmitted. Only the cordial but preliminary invitations have been transmitted through Department, since the Reparation Commission desires to arrive at a plan which will be suitable to the Department before it sends the formal invitation. It does not desire to send a formal invitation which would not be acceptable. If proposal below appears to be adequate, Department will receive an official invitation immediately.

Refer to your fourth paragraph. I received today the following note from Barthou which defines the scope and objectives of the work of the committee. Latter without doubt will be unanimously approved by the delegates. If you so desire it can be incorporated in the formal invitation.[46]

"Paris, December 5th, 1923. My dear Mr. Logan: I have just had a conversation with our colleague, Monsieur Delacroix, upon the observations which you have exchanged. In order to give you more definite information and to clear up points which might leave doubts in your mind, we desire to furnish you with more precise details.

The first committee of experts will endeavor to find (*a*) the means of balancing the budget, (*b*) the measures to be taken to stabilize the currency. Concerning the stabilization of the currency the experts would be invited first of all to determine the conditions to be realized in order that a currency could be stabilized and then the measures to be progressively taken so as to realize all of these conditions.

As the stabilization of the currency necessitates budget equilibrium the experts would similarly be invited to study in detail the receipts and the expenditures of the Reich as well as of the different states.

The Reparation Commission would ask the experts to give it in all sincerity their professional opinion on the questions submitted to them.

Monsieur Delacroix and I hope that it may lead your Government to acquiesce in the acceptance of invitations by American experts to participate in the labors of the committees. Furthermore, if you accept this suggestion, I am quite prepared to submit it to the Reparation Commission. (Signed) Louis Barthou."

Refer to your fifth paragraph. This note eliminates all elements of secrecy. Its terms are broad and it permits unrestricted expert advice with regard to every detail of German receipts and expenditures. It permits the necessary steps to stabilize the German mark. It certainly permits the discussion of any relevant subject. Among these is the volume of German indebtedness which inevitably must be important. It eliminates absolutely the past controversy over the word "actuelle". It also omits every restriction to any set period of years to which the inquiry shall be limited.

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[46] Quoted note not paraphrased.

The French realize the breadth of this plan. This is shown by the fact that Barthou informally has advised that the representatives of France might disassociate themselves from a plan to reduce Germany's debt although they will make no attempt to bar the discussion of the same. It is my understanding that Bradbury communicated this to the British Foreign Office. If the question of reducing the capital debt comes up, this might result unless during the discussion the French delegates were convinced in a minority and majority checked committee.

Reference to your paragraph 6. Department's statement that it was not intended to have United States designate technical representatives on the inquiry commission but instead should merely indicate its acquiescence in the acceptance of invitations by the American experts decided upon by the commission accords with my understanding of your views. The Reparation Commission understands your statement in the same way and it represents the action that they would like to see you take.

Reference to your paragraph 8. The position of the Reparation Commission is now developed, and if the foregoing formula is agreeable formal action will be taken including commission's official invitation.

The drafting of the formula has been very difficult because of conflicting points of view between the British and French. For this reason the formula is necessarily somewhat general in its terms. In connection with this the first note which Barthou sent was so indefinite that I told Delacroix that I personally thought it to be so vague as not even to justify the expense of cabling. The result was that the note quoted above was immediately substituted. The general atmosphere is such that an additional modification of the formula, not to involve any specific reference to the reduction of the capital debt, could be obtained if the Department were to indicate its desire. Logan.

HERRICK

462.00 R 296/99

The German Ambassador (Wiedfeldt) to the Secretary of State

WASHINGTON, *December 7, 1923.*

MR. SECRETARY OF STATE: Under instructions received from my Government I have the honor to inform Your Excellency as follows:

The Reparations Commission having decided to appoint two Commissions of which one to examine German capital abroad and the other the financial situation and currency conditions of Germany, the German Government is of the opinion that through the proceed-

ings in the latter commission important progress could be made towards the solution of the problems underlying economic recovery. My Government holds the view that this aim can only be achieved if the United States cooperates in said Commission.

It would therefore be much appreciated by my Government, if the Government of the United States were to agree to the participation of an American expert in said Commission.

Accept [etc.] DR. OTTO WIEDFELDT

462.00 R 296/95 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *December 11, 1923—4 p.m.*

455. For Logan. L–19. Your 496, December 6, 3 p.m. L–44.

You may reply at once to Barthou as follows:

"I have not failed to inform my Government of your letter of December 5th. My Government is deeply interested in the economic recuperation of Europe and is gratified to learn of the proposal for the establishment by the Reparation Commission of two committees of experts for the purposes stated. My Government notes the statement in your letter that the first committee of experts will endeavor to find (*a*) the means of balancing the budget of Germany, and (*b*) the measures to be taken to stabilize its currency; and that to this end the experts will be invited to determine the conditions to be realized in order that a currency can be stabilized and the measures to be progressively taken so as to realize all of these conditions, and also that they will be invited to study in detail the receipts and expenditures of the Reich as well as of the different States.

It has been made clear in our interviews that the Government of the United States is not in a position to be represented on these committees, but my Government believes that the proposed inquiries will be of great value and it views with favor the acceptance by American experts of invitations to participate in the work of the committees.

It is hoped that through these committees practicable and just solutions of the pending problems may be found." Signature, et cetera.

You may ask Barthou to incorporate the statement of his letter as to first committee of experts in invitation, and at the proper time you may suggest that the invitation for participation of American expert should be extended to General Charles G. Dawes. Suggestion as to second committee will be made later.

Obtain, if possible, Barthou's consent to the publication of his letter December 5th and your reply as above. Should be published simultaneously in France and United States at earliest possible moment because of deep general interest. Suggest publication Thurs-

day morning 13th, if no objection is made. This however does not include mention of Dawes for the present unless discussion here makes publication necessary. This Government hopes that proceedings of Reparation Commission may be expedited so that invitation to Dawes can be made at an early day.

HUGHES

462.00 R 296/100 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *December 12, 1923—7 p.m.*
[Received 7:37 p.m.[47]]

505. L–49. Reference our L–48.[48]

First. As indicated fifth paragraph our L–42 November 30,[48] each power will have three representatives, two on first committee, one on second; therefore in addition to Dawes two other Americans must be invited by commission. Commission will extend no invitation to Americans without your acquiescence. As a matter of fact none of others will be designated by their Governments but will act as participating on invitation of Reparation Commission. In this connection venture suggestion that name Owen Young be seriously considered. Reference to his possible designation has appeared in European press and all commission delegates have informally expressed the hope he be designated. . . .

Second. On account of French internal political situation, delicacy of both Poincaré's and Barthou's position vis-à-vis terms reference proposed committees must be appreciated.

As emphasizing this, Barthou's conduct throughout the negotiations has been on broad plane that commission acting independently under sovereign powers conferred by treaty and he advises delegates that while Poincaré kept informed all his actions not necessarily consulted in advance. While I presume cautionary advice on foregoing account unnecessary to American committee, appointees nevertheless feel that these gentlemen should be warned that it is absolutely essential for successful outcome of inquiry that they be very guarded in any public utterances they may make as to work of committees before reaching Paris and sensing position for themselves.

Third. View British political situation Bradbury advises me that he will perhaps be forced to make some change in his provisional

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[47] Telegram in two sections.
[48] Not printed.

list nominees reported our L–42. However will be of the same caliber and Bradbury himself going to London shortly to make definite arrangements. No information as yet regarding French, Italian and Belgian nominees except Francqui, Belgian. Hope by tomorrow to cable definite indications names [of] probable nominees.

Fourth. Reference my L–48. Have arranged with Barthou to release his letter December 5th [49] and my reply as per your L–19 [50] on December 13 at 11 o'clock a.m. to European press under caption quoted my L–48. Other delegates have been furnished copies and have arranged release same their own press same hour. Logan.

HERRICK

462.00 R 296/117 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *December 20, 1923—4 p.m.*
[Received December 20—2:57 p.m.]

528. L–60. First. All the individual delegates of powers represented on Reparation Commission have just informed me that it is their intention to extend a unanimous invitation to Harry M. Robinson, President of First National Bank, Los Angeles, to sit on second committee experts provided Robinson willing to accept. Delegates request me to ascertain whether Robinson will accept. They ask me to inform Robinson confidentially that his associates on this committee would be: Great Britain, McKenna; France, Atthalin; Italy, Alberti; and Belgium, Janssen; and that first meeting this committee would be held in Paris on or about January 10th, 1924. Delegates request no publicity be attached to invitation because if Robinson accepts, as all hope he will, commission will make immediate public announcement in same form as in case of Dawes and Young pending plenary meeting commission when formal invitation would be extended. Request earliest possible reply.

Second. Ambassador and I feel that, inasmuch as Robinson's name has been unanimously proposed by all the delegates like those of Dawes and Young without initiative or knowledge their part and constitute such a signal honor, that under no circumstances should Robinson decline.[51] Logan.

HERRICK

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[49] See telegram no. 496, Dec. 6, from the Ambassador in France, p. 102.
[50] *Supra.*
[51] On Dec. 22 the Department informed Mr. Logan that Mr. Robinson had accepted (file no. 462.00 R 296/117).

462.00 R 296/122 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Extract]

PARIS, *December 21, 1923—6 p.m.*

[Received 11 : 50 p.m.]

535. L–62. First. At plenary meeting commission this morning, December 21st, on motion president commission formal invitations were extended to Dawes and Young to become members of first committee. In addition, on motion of president of commission, Dawes was invited to accept chairmanship first committee. Invitations to Dawes and Young couched in following language modified as hereinafter indicated in case of Dawes to cover commission's offer chairmanship first committee:

"Reparation Commission, December 21, 1923. The Reparation Commission at a meeting held on the 30th ultimo unanimously adopted the following decision:

'In order to consider in accordance with the provisions of article 234 of the Treaty of Versailles the resources and capacity of Germany and after giving her representatives again opportunity to be heard, the Reparation Commission decides to create two committees of experts belonging to the Allied and Associated countries. One of these committees would be entrusted with considering the means of balancing the budget and the measures to be taken to stabilize the currency, the other would consider the means of estimating the amount of exported capital and of bringing it back into Germany.'

The commission has the honor to invite you to participate in the work of the first committee above mentioned."

In Dawes' letter following words add to above: "and accept the chairmanship of it." In Young's letter following words add to above: "and will be happy to learn of your acceptance."

In view of the fact that Barthou's letter December 5th [51a] and my reply December 12th [52] as to scope of inquiry had been formally recorded on the minutes of the 411th meeting of commission, dated December 14, and also published in the press deemed unnecessary to recite its terms in text invitations extended to individual Americans.

. . . . . .

HERRICK

462.00 R 296/129

The Secretary of State to General Charles G. Dawes

WASHINGTON, *December 27, 1923.*

MY DEAR GENERAL DAWES: Colonel Logan telegraphs that the first committee, of which you are a member, will meet at the Hotel

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[51a] See telegram no. 496, Dec. 6, from the Ambassador in France, p. 102.

[52] See Department's telegram no. 455, Dec. 11, p. 105.

Astoria, Paris, on Monday, January fourteenth, and that the second committee will meet at the same place on Monday, January twenty-first. Colonel Logan also suggests that you cable formal acceptance direct to Reparation Commission upon receipt of Reparation Commission's cable.

Very sincerely yours,

CHARLES E. HUGHES

462.00 R 296/129

The Secretary of State to Mr. Owen D. Young

WASHINGTON, *December 27, 1923.*

MY DEAR MR. YOUNG: Colonel Logan telegraphs that the first committee, of which you are a member, will meet at the Hotel Astoria, Paris, on Monday, January fourteenth, and that the second committee will meet at the same place on Monday, January twenty-first. Colonel Logan also suggests that you cable formal acceptance direct to Reparation Commission upon receipt of Reparation Commission's cable.

Very sincerely yours,

CHARLES E. HUGHES

462.00 R 296/139 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *January 8, 1924—4 p.m.*

[Received 7:47 p.m.]

7. L–73. Dawes and Young releasing following statement to press, 5 p.m. today, European time:

"The American experts have up to this time made no statement of any kind to the press. Whatever they have to say now and hereafter will be by formal statement.

They have been invited by the Reparation Commission to sit as members of an expert committee which is asked to develop facts and make certain suggestions. The American experts come as private citizens without instructions and without the obligation of making reports except to Reparation Commission. They have no preconceived plans, simply hoping that in the plans developed by others they may be of assistance.

There is one statement, however, which they have no hesitancy in making at this time and without consultation, they assume that it represents the sentiment of all members of the committee as well as public sentiment everywhere, to wit: that time is an essence of this situation, that the committee is a business committee concerned with facts and constructive inferences to be drawn from them, that their

work should be conducted with all possible expedition and that there should be daily and continuous sessions. Signed Charles G. Dawes and Owen D. Young".

Logan
Herrick

AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF GREAT BRITAIN, FRANCE, ITALY, AND BELGIUM IN REGARD TO THE REIMBURSEMENT OF THE COSTS OF THE AMERICAN ARMY OF OCCUPATION, SIGNED MAY 25, 1923[53]

462.00 R 294/119a

The Secretary of State to the Assistant Secretary of the Treasury (Wadsworth)[54]

Washington, *February 19, 1923.*

[Sir:] In connection with your Mission to Paris to meet with representatives of the Allied Governments in order to discuss questions relating to the reimbursement of the costs of the American Army of Occupation in Europe, I desire to set forth the following points for your information and guidance.

General Position of the United States

The general position of the Government of the United States in the matter, as set forth in notes dated March 22 and 23, 1922,[55] (exhibits 1 and 2 respectively) which were addressed to the Governments of Great Britain, France, Belgium, Italy and Japan, is indicated by the following extract from the note of March 22:

"The Government of the United States believes that its right to be paid the actual cost of its army of occupation *pari passu* with the cost of the armies of the Allied Powers is not only a clearly equitable right but is free from any technical objection."

The French Government replied on March 28, 1922,[56] in part as follows (exhibit 3):

"I hasten to inform Your Excellency that the Government of the Republic has never had any intention of contesting the right of the United States to be as fully reimbursed for their costs of occupation as the other Governments with troops on the Rhine."

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[53] For previous correspondence, see *Foreign Relations*, 1922, vol. II, pp. 218 ff.

[54] Exhibits mentioned in this document are not printed; as far as possible, reference has been made to previous volumes of *Foreign Relations*. Also the minutes of the meetings of the Reparation Commission, of which typewritten copies had been transmitted to the Department, are not printed.

[55] See telegrams no. 90, Mar. 20, and no. 92, Mar. 22, 1922, to the Ambassador in France, *Foreign Relations*, 1922, vol. II, pp. 220 and 224.

[56] Not printed; see telegram no. 139, Mar. 29, from the Ambassador in France, *ibid.*, p. 225.

The British Government replied on April 7, 1922,[57] in part as follows (exhibit 4):

"I am anxious to lose no time in assuring Your Excellency that the claim put forward by the United States Government that these expenses should be reimbursed to them is one which His Majesty's Government would not in any circumstances desire to question. It would be impossible to do so without an indifference to manifest considerations of justice and without a failure to recognize the part played by the United States in the war and in the subsequent occupation such as I am confident that your government would not think of imputing to His Majesty's Government. It is the earnest desire of His Majesty's Government that means should be found with as little delay as possible to give practical effect to the desires of the United States Government."

The Department of State was advised in a telegram dated April 8, 1922,[58] of the Belgian Government's reply in part as follows (exhibit 5):

"I hasten to inform you that the Belgian Government has never entertained the idea of questioning the right of the United States to reimbursement for its expenses of occupation."

The reply of the Italian Government under date of May 15, 1922,[59] contained the following passage (exhibit 6):

"I have the honor to inform you that the Royal Italian Government, not having participated with its own forces in the occupation of the Rhine territory, has never contested the right of the United States to such a reimbursement."

On May 18, 1922, (exhibit 7) the French Minister of Foreign Affairs addressed a note to the American Embassy at Paris[60] suggesting that a meeting of the representatives of the Allied Governments should be held to examine the question of reimbursement of the costs of the American Army of Occupation, and to "endeavor to find the measures susceptible of giving satisfaction to the request made by the Embassy of the United States".

On June 4, 1922,[61] the Department instructed the Embassy at Paris to reply in part as follows (exhibit 8):

"The Government of the United States notes with gratification the action taken by the French Government with a view to arriving at a prompt settlement of the question of the reimbursement of the costs of the American Army of Occupation."

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[57] See telegram no. 174, Apr. 10, from the Ambassador in Great Britain, *ibid.*, p. 228.
[58] *Ibid.*, p. 228.
[59] *Ibid.*, p. 230.
[60] *Ibid.*, p. 229.
[61] *Ibid.*, p. 231.

On November 8, 1922, the diplomatic representatives at Washington of Great Britain, France and Italy handed to the Secretary of State a memorandum [62] stating in part as follows (exhibit 9):

"These Governments have already indicated their willingness to find a practical means of meeting the desires of the United States Government in this matter, so that it does not seem necessary at present to subject the reasoning contained in the United States notes to a detailed examination."

The reply to this memorandum under date of November 22, 1922,[63] (exhibit 10) stated that the Government of the United States welcomed the suggestion that it nominate a representative to confer in the matter, and advised them of your designation to meet with their delegates in Paris.

In a further communication under date of November 29, 1922, (exhibit 11) the United States Government inquired concerning the date upon which it was proposed that the meeting should take place. In response to this inquiry the American Ambassador at Paris was informed on January 24, 1923, that March 1 had been suggested as the date for the conference (exhibit 12). A telegram from the Ambassador under date of February 10, 1923,[64] stated that he would notify the Conference of Ambassadors on February 14 that the date of March 1 was agreeable to this Government.

It thus appears from the record that, although the Allied Governments have not necessarily accepted all the considerations on the strength of which this Government has justified its right to receive payment of these costs, they have nevertheless accepted the general contention of this Government. The note from the French Foreign Office, (exhibit 3) which is cited above, admits specifically the right of the United States "to be as fully reimbursed for their costs of occupation as the other governments with troops on the Rhine". Although the replies from the other governments are less specific than the reply of the French Minister of Foreign Affairs, this Government nevertheless feels warranted in assuming that none of these governments disputes the right of the United States to treatment on an equal footing with them.

In view of the foregoing it does not appear necessary or desirable that you should discuss in any way the question whether the actual costs of the American Army of Occupation shall be met, or should enter into any consideration of any so-called technical questions that may be alleged to exist as to the right of this Government to be paid the actual costs of its Army of Occupation *pari passu* with the

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[62] *Foreign Relations*, 1922, vol. II, p. 232.
[63] *Ibid.*, p. 233.
[64] Not printed.

other Governments concerned. If, however, it should be necessary for you to decline to discuss these questions, you should make it clear that your attitude is due to the fact that the Government of the United States is unwilling to enter into any argument as to the legality or equity of a claim which it regards as established and recognized, and not to any fear that its position is weak, or possibly untenable. The object of the forthcoming conference as understood by this Government, is to consider practical means by which the just and admitted claim of the United States may be satisfied.

Amount of Claim

So far as the Department of State is informed, there is no disposition on the part of anyone to question the figure of the claim of the United States. As a matter of fact, as you will observe from the figures contained in the letter of this Department to the Secretary of War dated November 17, 1922, (exhibit 13) and in his reply of November 22, 1922, (exhibit 14) the amount of the claim of the United States as of April 30, 1922, to wit, $254,122,738.98, converted into gold marks at the rate of 23.821 cents per gold mark, gives a total of 1,066,801,305 gold marks, or only 27,305 gold marks in excess of the figure appearing in the records of the Reparation Commission as of the same date. You will also note that the Secretary of War perceives no objection to adopting as a basis of discussion the figure reported by the Reparation Commission.

According to the statement of the War Department, a copy of which is enclosed (exhibit 15), it appears that the net balance due to the United States on this account as of October 31, 1922, is $255,235,825.75. It is understood that you have received informally from the War Department a detailed analysis of the items entering into this figure.

The Department has no information of the amount due to the United States as reported by the Reparation Commission as of October 31, 1922. You are instructed, however, to accept the figures of the Reparation Commission, if the difference between them and those of the War Department is no greater proportionately than the discrepancy above mentioned, as of April 30, 1922.

You should endeavor to obtain from the respective governments formal recognition of the amount of the claim of the United States as of October 31, 1922, or any later date for which definitive figures may be available, and in addition obtain their approval of a procedure for determining upon the balance due to the United States subsequent to October 31, 1922, or such later date as may be agreed upon.

The Department has telegraphed to Mr. Boyden[65] requesting the latest figures available from the Reparation Commission, and asking for an explanation of the discrepancy between the War Department's figures and the figures of the Reparation Commission as of April 30, 1922. Mr. Boyden's report will be communicated to you separately if it is received prior to your departure.

The Question of Allowing Interest on the Claim of the United States

On December 5, 1921, the British delegate on the Reparation Commission submitted a memorandum to the Commission stating that, in connection with the repayment of unpaid balances due to the British Government on account of its Army of Occupation in Germany for the period to May 1, 1921, "His Majesty's Government is of opinion that it is entitled to be credited with interest for the period from 1 May 1921, until payment, on the amount of the claim outstanding, and that the rate of such interest should be five per cent per annum."

The memorandum from which the above passage is quoted, together with comments by the members of the Finance Service of the Reparation Commission, is given in Annex 1224ab of the Reparation Commission (exhibit 16). A memorandum by the Finance Service sent to the General Secretary of the Reparation Commission, which is quoted in the above mentioned Annex, points out that:

"In so far . . .[66] as the costs of the Armies of Occupation have been met by Germany, no interest can be claimed from her and the question of interest to be credited to Great Britain for the deficit of her Army costs at May 1, becomes an arrangement between all the Powers entitled to reparation since Germany has no debt towards the Allies as a whole for these costs. The deficit with regard to Great Britain is balanced by the surplus of deliveries over Army costs received by other Powers; further, payments and deliveries allotted to countries who have no armies of occupation could, if the Reparation Commission so decided, be employed to meet the deficit."

So far as the Department is informed, the Reparation Commission has taken no action on the memorandum submitted by the British Government.

In the communication which Mr. Boyden addressed to the Finance Ministers on March 10, 1922,[67] (exhibit 17) he stated, under instructions, that "the Government of the United States expects to obtain

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[65] Roland W. Boyden, American unofficial representative on the Reparation Commission.

[66] Omission indicated in the Secretary's letter.

[67] See telegram no. 71, Mar. 9, to the Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 218.

full payment of the costs of its Army of Occupation with interest from May 1, 1921."

Mr. Boyden was instructed to present this claim for interest, in view of the fact that the British Government had presented a similar claim. However, in case the other Governments should not insist upon their claims for interest, and provided that the United States should receive assurances of a prompt and satisfactory settlement of its claim, this Government would not be disposed to insist upon the payment of interest. In case the right to the receipt of interest should be recognized in favor of any Government, the United States obviously would similarly be entitled to receive interest, and, in such event, the United States could not waive its right to receive interest without specific authorization by the Congress. Suitable reservation on this point, should it arise, should therefore be made.

German War Material Coming Into the Hands of the American Army East of the Armistice Line

As the American Army advanced into Germany following the armistice some material having non-military value came into its possession. This material has not yet been definitely evaluated, and Mr. Boyden has been instructed to study the matter and to submit to this Department his recommendations as to what in his judgment appears to be the fair value of the material in question received by the American Army.

The October Accounting Annex of the Reparation Commission (exhibit 18, form J–1) charges the United States Government with a provisional amount of 59,491,000 gold marks under this head. However, as indicated in the preceding paragraph, no definite valuation has yet been placed upon this material. Besides, this Government has not accepted in principle that the fair value of this material be charged to it on army costs account.

Article 250 of the Treaty of Versailles (exhibit 19, page 112) provides that, "There shall be credited to the German Government, against the sums due from it to the Allied and Associated Powers for reparation, the value, as assessed by the Reparation Commission, . . . [68] of the material handed over in accordance with" the armistice agreements, "for which, as having non-military value, credit should in the judgment of the Reparation Commission be allowed to the German Government."

Inasmuch as this Government has taken the position that receipts from Germany should be applied on the Army cost accounts of the respective powers, with priority over any other application, it appears

[68] Omission indicated in the Secretary's letter.

equitable that the Government of the United States should admit the fair value of the material in question as a charge on its Army cost account on an equal footing with the other powers concerned. Accordingly, you should inform your colleagues at the appropriate time that the Government of the United States is disposed to accept in principle a charge on its Army cost account of the fair value of the material in question as this value may subsequently be determined, such determination to be made in accordance with principles to be agreed upon by and equally applicable to the governments concerned.

Position of the United States With Respect to Payments Made to Date by Germany

The note of March 22, 1922, (exhibit 1) contains the following passage:

"In the Treaty of Versailles, in undertaking to place 'a first charge upon all the assets and revenues of the German Empire and its constituent States,' (Article 248) priority was given to the total cost of all Armies of the Allied and Associated Governments in occupied German territory from the date of the signature of the Armistice Agreement."

As explained fully in this note, the Government of the United States considers that it has a sound legal and equitable claim, on an equal footing with the other Governments concerned, to payment of its actual army costs with priority over other payments by Germany. This Government feels warranted in assuming, as indicated above, that none of these Governments is disposed to question the right of the United States to be as fully reimbursed as they with respect to its army costs.

It appears from Forms K and N of Part 2 of the Monthly Accounting Annex, October, 1922, (exhibit 18) that the Reparation Commission had received up to October 31, 1922, 1,776,474,755.89 gold marks in cash (including 143,445,153 gold marks in Treasury Bills), and 3,352,846,317.47 gold marks in kind, a total of 5,129,321,073.36 gold marks.(*) The foregoing figures refer to liquid deliveries and do not include the value of state properties in ceded territories, whose total value as indicated on page 3 of the above mentioned accounting annex is 2,553,905,000.00 gold marks. According to figures given in Form H of the same accounting Annex, the total gross cost of armies of occupation from the armistice until October 31, 1922, amounted to 4,098,264,513.02 gold marks; the net cost in this period, deducting receipts in paper marks, amounted to 3,493,100,052.16 gold marks

* The figures given above do not correspond with those appearing on page 3 of the accounting annex, which relate only to sums placed to the credit of Germany. [Footnote in the original.]

(these figures include costs of the American army only up to July 31, 1922).

It is clear from the foregoing, therefore, that the Government of the United States has a right to look for repayment of American army costs to the countries that have received from Germany total payments in excess of their respective Army costs.

Leaving out of account deliveries in kind received from Germany, and considering receipts in cash, it appears that of the total of approximately 1,776,474,755.89 gold marks, only a portion, namely, 780,655,955.32 gold marks, has been allocated on army cost account as follows: 637,924,570.63 gold marks to the British Empire; 142,562,767.80 gold marks to France; 5,038.70 gold marks to Italy; and 163,618.19 gold marks to Belgium.

It should be added in this connection that the so-called Spa coal advances to facilitate the rehabilitation of Germany whose total amount is understood to be 392,216,256.13 gold marks, have been ranked ahead of army costs by virtue of the Spa Protocol of July 16, 1920 [69] (Exhibit 20). The Government of the United States has not recognized the validity of this arrangement, and in this connection your attention is invited to the reservation made by Mr. Boyden on August 5, 1920, which is quoted below.

With respect to cash payments, however, it is the view of this Government that the United States should have received practically the entire amount of its claim out of the cash payments already made by Germany and strictly applicable to Army costs. It appears from Form J–1 in the above mentioned Accounting Annex that, of the cash receipts aggregating as stated above, 1,776,474,755.89 gold marks, there has been allocated to the payment of army costs only 780,655,995.32 gold marks, leaving 995,818,760.57 gold marks which have been diverted to purposes other than the payment of army costs.

According to Form J–1 the total balances due on Army cost account as of October 31, 1922, (July 31, 1922 in the case of the United States), amounted to 1,237,484,127.08 gold marks, of which amount 1,010,258,960.98 gold marks was due to the United States; 68,061,267.33 to the British Empire; and 159,163,892.77 gold marks to France. This would seem to show that the army costs of the British and French Governments are not fully paid, but in this connection it should be pointed out that the British Government has been charged with cash receipts in respect of the Spa coal advances in the amount of 93,871,074.72 gold marks, and the French Government with 238,771,510.81 gold marks. If the amounts charged to the British Empire and to France on account of the Spa coal ad-

[69] See telegram no. 1465, July 29, 1920, from the Chargé in France, *Foreign Relations*, 1920, vol. II, p. 403.

vances had not been included, these Governments would clearly have been overpaid on army cost account, instead of having credit balances.

I may say for your further information that the Government of the United States has fully protected its position with respect to the repayment of its army costs by repeated statements and reservations as appropriate occasion arose. Without undertaking to recite these statements and reservations completely, I may outline briefly some of the more important statements made in this connection.

On November 24, 1919, Mr. Henry White made the following statement at a meeting of the Supreme Council:

"The United States, therefore, has always understood that it is entitled to be reimbursed the exact cost of maintaining all its military forces in German territory or in the several plebiscite districts since November 11th, 1918, until finally withdrawn.

"While there have been many conferences on this subject and while the matter has been previously discussed in the Supreme Council, no representative of the United States Government has ever agreed to nor has had any authority whatever to agree to any other position or view.

"If it be considered that the cost of the United States forces in any of the occupied territory or plebiscite districts 3,000 miles from their base, is greater or will be greater than is desirable, nevertheless, it will be recalled that the Associated Powers have repeatedly requested the United States Government to consent to their use for this purpose. If the Associated Powers deem it to their interest to reduce the cost of the Armies of Occupation, it would appear to be preferable to request the United States Government to decrease its military representation rather than to resort to financial expedients the legality of which might well be questioned."

On August 5, 1920, Mr. Boyden, in connection with the proposal that certain advances to Germany in connection with the Spa Protocol of July 16, 1920, should be conceded priority over other obligations due from Germany, made the following declaration [70] which was placed in the Minutes of the Reparation Commission (Minutes No. 73, page 5):

"In view of the arrangements between the Powers concerned as to the priority to be afforded to their advances under the terms of the Spa Protocol, the United States Unofficial Delegate makes no protest or reserve, merely pointing out that these decisions, to which the United States is not a party, do not affect the position of the United States. With respect to the costs of the United States Army of Occupation, he adds that the United States obviously understands and expects that it will be reimbursed in cash for the actual cost, and that it will be notified at once if its Army is not wanted on these

[70] See telegram no. 1507, Aug. 5, 1920, from the Chargé in France, *Foreign Relations*, 1920, vol. II, p. 417.

terms. In this connection, he refers to the letter of the American Delegation to the O. C. R. C. dated November 28th 1919 and its accompanying Memorandum."

In connection with the distribution of cash payments received by the Reparation Commission, further reservations with respect to the position of this Government were made, in part as follows.

On June 28, 1921, in connection with a discussion before the Reparation Commission of the proposed payment of about 130,000,000 gold marks on account of British Army costs, Mr. Boyden made a statement which is quoted as follows from the Minutes of the Reparation Commission of that date (Minutes No. 202, page 11):

"3. Mr. Boyden had hoped before this to be able to make a definite statement as to the position of his Government, but had not received instructions. Every one understood, however, that the United States expected to receive the full cost of its Army of Occupation, and it was obvious that it would at least expect to share concurrently with other countries in any distribution of cash available."

On July 8, 1921, the British delegate, Sir John Bradbury, stated (Minutes No. 205, page 9) that he was "quite prepared, on behalf of his Government, to accept payment upon the understanding that the sum paid should be subject to any claim which the United States Government might subsequently establish against it, as fully as if it had remained in the hands of the Commission." On July 15, the French representative, M. Mauclère, in connection with a discussion as to whether France as well as Great Britain was still entitled to payment on account of her army costs up to May 1, 1921, stated (Minutes No. 208, page 6):

"It was besides quite understood that if these accounts showed France had a right to a certain part of the sum actually available, she gave the same undertaking with regard to the position of United States Government, when the situation of the latter became clear, as that given by Great Britain at the last Meeting."

On July 30, 1921, in connection with a discussion before the Reparation Commission of the allocation of the billion gold marks received from Germany during the summer of 1921 under the Schedule of Payments, the greater part of which it was proposed to pay to Belgium, Mr. Boyden (Minutes No. 210, page 29) "wished to refer to a reserve he had already made in connection with any possible rights which the United States Government might have in any of the resources to be distributed by the Reparation Commission, and he understood that the Belgian Delegation would be prepared in that connection to accept the same stipulations as those previously accepted by the British and French Delegations." The Minutes of this meeting state that "M. Delacroix repeated in exactly the same terms and with

exactly the same scope the assurance given by Great Britain and France."

At this same meeting, in connection with a discussion between the British and French representatives, the British representative made a reserve to the effect that the priority of army costs lay against payments from Germany under the Schedule of Payments. The Belgian Delegate stated as follows:

"The Belgian Government formally declared itself responsible for such sums as might be due by it in respect of the cost of the armies of occupation which had been borne by one of its Allies before May 1st, 1921."

Mr. Boyden also stated that any arrangement for provisional transfer of these funds to Belgium "would have to be subject to the reserve which had already been made by Sir John Bradbury." Sir John Bradbury stated that he understood that "Belgium would make herself responsible for any payments due to any other powers arising out of the priority in respect of the costs of the armies of occupation".

The following was the decision of the Reparation Commission:

"1. That the sums received up to and including July 31st, 1921 by the Reparation Commission in virtue of the Schedule of Payments with the exception of those in pounds sterling, francs and lire:

"2. That the sums to be paid over by Germany up to and including August 31st, 1921 in virtue of the same Schedule of Payments, would provisionally be allocated and handed over to Belgium; that was to say, that Belgium undertook to hand over any sums which might be in excess of its final allocation to any of the other Allied and Associated Powers which might be entitled thereto either on account of repayment of the costs of the Armies of Occupation before May 1st, 1921 or on any other account."

Commenting on the foregoing Mr. Boyden wrote to the Department of State as follows on August 1, 1921:[71]

"This decision is subject to all possible reserves. Belgium will get the money but if later accounting or decisions show that she is not entitled to keep any part of it, she will have to adjust the account. It is, of course, subject to all rights of the United States as in the case of the payment made to England."

During August, 1921, the Finance Ministers of Great Britain, France, Belgium, Italy, together with the Japanese representative on the Reparation Commission, met[72] to consider various questions including the distribution of payments received from Germany. Article I of the chief of the three agreements signed at this meeting contained the following provision:

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[71] Letter not printed.

[72] At Paris, Aug. 8–13.

"The governments signatory to this agreement agree to share as set out below the sums received or to be received from Germany on Reparation account by way of giving effect to priority of payment in respect of the Armies of Occupation and to the Belgian priority.

"(1) Out of the sum of 1 milliard gold marks to be paid by Germany before the 31st August, 1921 under the Schedule of Payments the British Empire will receive the sum necessary to cover the costs of her Army of Occupation up to the 1st May 1921.

"Belgium will receive on account of the priority which has been accorded to her the sum remaining out of the 1 milliard in question after the above allocation in favour of the British Empire."

. . . . . .

"(3) Pending the definite determination by the Reparation Commission of the amount due to the British Empire in respect of the costs of its Army of Occupation incurred prior to 1st May, 1921, a sum of 450 million gold marks will be paid on account to the British Empire in virtue of the present decision."

This agreement, however, never went into formal effect, because of failure of ratification by the French Government, but it is understood that the distribution contemplated was provisionally made, subject to the rights of the United States.

Meanwhile, pursuant to a decision of the Supreme Council of August 13, 1921, a Commission on which Mr. Roland W. Boyden and Major General Henry T. Allen sat unofficially on behalf of the United States, met, and as a result of its deliberations presented a report with regard to the reimbursement of army costs since May 1, 1921. In this report calculations were included with respect to reimbursement of the actual costs of maintaining the American Army of Occupation, *pari passu* with those of the other Powers concerned. The report of this Commission to the Supreme Council, it had been supposed, would be referred to the Conference of Ambassadors (the Supreme Council not being likely to meet for some time), and it was thought that this report might pave the way for suitable action with respect to reimbursement of American army costs, both current and accumulated. However, the Government of the United States learned with surprise in February, 1922, that it had been proposed, in connection with discussions at and following the meeting at Cannes in January of that year,[73] that new arrangements apparently were to be substituted for the recommendations of the above mentioned Commission, which arrangements entirely ignored the army costs of the United States, notwithstanding the fact that at that time calculations were being made, both with respect to army costs and Reparation payments, that would absorb the entire paying capacity of Germany. Therefore, in view of this situation,

[73] See *Foreign Relations*, 1922, vol. I, pp. 384 ff.

when the Government of the United States learned that it was proposed at the meeting of the Allied Finance Ministers in March, 1922, to make further arrangements with respect to payments received from Germany without taking account of the rights of this Government, it was deemed advisable that action should be taken, and Mr. Boyden was instructed to inform the Finance Ministers of the claim of the United States. On March 10, 1922, under instructions from the Department, he presented the following memorandum to the Finance Ministers (exhibit 17):

"I have this morning received a cable from Washington instructing me to point out to you that the United States Army costs up to May 1, 1921, amount to approximately $241,000,000. The Allied Governments, with the possible exception of Great Britain, have received army costs in full up to May 1, 1921, and the English army costs are apparently to be met in full in connection with the present arrangements. In view of the foregoing, the Government of the United States expects to obtain full payment of the costs of its Army of Occupation, with interest from May 1, 1921, before any part of German payments is distributed for reparations or other purposes.

"With reference to current costs I am requested to state that the Government of the United States will insist upon full payment, but that, if assurance of payment is received, it anticipates no difficulty in arranging the practical details of making the payment."

To this communication the Finance Ministers replied[74] in part as follows (exhibit 22):

"We have given this communication our most careful consideration, and enclose herewith the text of the arrangement signed today[75] at Paris. A special article has been inserted in this document to meet the considerations set forth in the Memorandum you have sent us.

"While thus safeguarding the rights of the United States of America, however they may be defined later, we consider that, since our decisions are adopted by virtue of the Treaty of Versailles, to which the Government of the United States is not signatory, the question which you refer to us concerns our respective Governments and must be the object of communications directly addressed to the Allied Governments by the Government of the United States of America, through diplomatic channels."

The Agreement signed by the Finance Ministers in March 1922[76] (Exhibit 21), which the Department understands has been ratified by the respective Governments, provided (Article 8) for the allo-

[74] See telegram no. 119, Mar. 14, 1922, from the Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 219.

[75] Mar. 11, 1922.

[76] For text of agreement, see Great Britain, Cmd. 1616, Reparation (1922): *Financial Agreement between Belgium, France, Great Britain, Italy, and Japan, Signed at Paris, March 11th, 1922.*

cation of 500,000,000 gold marks to Great Britain and 140,000,000 gold marks to France on account of the army costs of those countries prior to May 1, 1921. Article 13 of this Agreement is as follows:

"The present Agreement is made subject to any rights of the United States of America."

On April 6, 1922, an instruction was telegraphed to the American Ambassador at London, of which the following is a paraphrase:

"The discussion of arrangements for the payment of accumulated army costs should proceed only on the basis of an unequivocal recognition of the right of the United States Government to be paid both accumulated and current army costs on an equal footing with Allied Governments. It should not be difficult to arrange reasonable terms if this right is admitted. This Government desires that suggestions as to settlement should come from the Allied Governments, but in order to aid you in conversation which may lead to such proposals from them, the following points may be noted:

"Germany has made cash payments, since May 1, 1921, of more than 1,400,000,000 gold marks, or almost enough to pay the balances due on that date for army costs, which according to Reparation Commission accounts amounted to about 1,660,000,000 gold marks. Not taking account of the large deliveries in kind made to the Allied Governments, the entire claim of the United States as of May 1, 1921, should have been met out of the cash payments strictly applicable to army costs. While this Government does not desire to be over-exacting, and wishes to take account of all circumstances and especially the payment of interest by Great Britain on her debt, it feels that it should participate to a substantial extent in cash payments already made by Germany. In view of what the other Powers have already received, it would not seem too severe to ask that the United States should have, out of the payments made heretofore, not less than 300,000,000 gold marks; 100,000,000 gold marks of this amount should be paid immediately and the rest during the next two years, as the Allies might arrange. It should then be understood that in whatever cash payments may be made hereafter by Germany, the United States should proportionately share until the army costs of the United States are paid in full. Until army costs are fully liquidated, the Government of the United States feels that not less than one-half of such cash payments should be applied to army costs, preference being given to the Powers whose costs have not been paid in full and in proportion to their unpaid claims. These suggestions are made merely to facilitate discussion, and are tentative and informal."

This instruction was also communicated subsequently to the American Ambassador at Paris and to Mr. Boyden, who were authorized to discuss the question informally with the representatives of the Allied Governments. The Department has been advised that no definite indication of the attitude of those Governments has been

given on the strength of the informal discussions that have taken place.

With reference to the position to be taken by you at the forthcoming conference in respect of the cash payments thus far made by Germany, it is my opinion, as indicated above, that the United States should share in these payments, but in view of the agreement recently reached by the World War Foreign Debt Commission with the British Government with respect to the refunding of the indebtedness of Great Britain to the United States,[77] and furthermore, in view of the present critical economic and financial conditions in Europe, I am inclined to feel that a modification of the above quoted proposal in a sense somewhat more favorable to the European Governments concerned may be made. For example, an agreement could be reached to the effect that with reference to payments heretofore received by the other Powers (to which I referred in my telegram of April 6, 1922, indicating that it would be fair for the Government of the United States to receive 300,000,000 gold marks out of these payments), the United States should receive not less than 50,000,000 gold marks in the near future, say on June 1, 1923, and further sums to make up the balance of the 300,000,000 gold marks in question in successive annual installments of 50,000,000 gold marks yearly.

It should be clearly understood, however, that in consenting to such an arrangement, the United States does not, in any way, release the other Governments concerned from the obligation to reimburse it for the full cost of its army of occupation out of the payments received from Germany strictly applicable to army cost account that, subject to the reservation of the rights of the United States, have been diverted to other purposes, and that any such arrangement is contingent upon satisfactory settlement of the claim of the United States as a whole.

Position of the United States with Respect to the Discharge of the Balance of Its Claim

As stated above, in view of the rights of the United States and of the over-payment by Germany of [*to*] other Governments in respect of their army costs, the Government of the United States looks to them to arrange suitably the payment of its claim, and considers that it would be appropriate at the forthcoming conference if the representatives of the other Governments concerned should make suitable

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[77] See *Combined Annual Reports of the World War Foreign Debt Commission* (Washington, Government Printing Office, 1927), p. 106.

provision for the receipt by this Government of further payments on account according to a definite plan to be agreed upon. Under the circumstances, I am not inclined to lay down, in this connection, any hard and fast schedule, but feel that you should invite the representatives of the Governments concerned to make proposals as to means by which in this manner the claim of this Government may suitably be discharged within a reasonable time, perhaps by means of definitely established annuities.

With respect to future cash payments from Germany under the terms of the Treaty, this Government would be willing to participate therein under an agreement to be reached with the other Governments concerned and to accept on account of its claim for army costs such sums as an offset against the amounts due from the Allied Governments. You should make it clear, however, that by consenting to such an arrangement, the United States does not agree to release the other Governments from their obligation, but only to facilitate their payment of that obligation.

In the above quoted telegram of April 6, 1922, it was informally suggested that not less than half of future cash receipts should be applied to army costs, with preference to those Powers whose army costs had not been fully paid and in proportion to the amount of their unpaid claims, until these were fully discharged. Inasmuch as (leaving out of account the alleged priority of the Spa coal advances) the Government of the United States alone has an unpaid balance on army cost account, this suggestion would, in effect, apply only to the army costs of the United States. You will realize from the foregoing that the informal suggestion referred to was merely advanced to facilitate discussion and as a method that might possibly be mutually agreeable for bringing about the allocation of certain payments to the Government of the United States, with the effect of reducing thereby the amount of their own liability. Obviously, as the suggestion in question was very general and informal, and was not accepted at the time by those Governments, it is in no way binding upon the United States.

Dyes

In the fall of 1919, before the Treaty of Versailles came into effect, the Allied Governments made arrangements to avail [themselves] of dyes and dyestuffs obtainable from Germany, in anticipation of the treaty provisions. Under the circumstances and particularly in view of the urgent need in the United States of a share of the dyes in question, it was deemed advisable to make arrangements by virtue of which the Textile Alliance, Incorporated, was enabled to purchase

and distribute these dyes in the United States. Under arrangements between the Department of State and the Textile Alliance made in September, 1919, April, 1920, and July, 1920[78] (the July arrangement is Exhibit 23), the Textile Alliance has procured from the Reparation Commission substantial quantities of dyes. On December 14, 1921, the treaty establishing friendly relations with Germany having been proclaimed on November 14, 1921,[79] the Department terminated the arrangement with the Textile Alliance, but that organization continued to purchase dyes from the Reparation Commission until recently. By letter dated November 29, 1922, (Exhibit 24), the President of the Textile Alliance advised the Reparation Commission that the Textile Alliance had determined that it could no longer undertake to deal in reparation dyes.

The Textile Alliance paid the Reparation Commission in cash for such dyes as it purchased. However, in June, 1922, the Department determined that it would be advisable if suitable arrangements could be made to receive reparation dyes without payment, the proceeds to be applied to payment of American army costs. On June 24, 1922, (Exhibit 25), the Department instructed the American Ambassador at Paris, in cooperation with Mr. Boyden, to make inquiry on this point of the members of the Reparation Commission. Informal replies from these governments, copies of which are attached, (Exhibit 26), indicate that these governments are willing that the United States should receive these dyes in the manner suggested.

Although the Governments concerned have indicated their readiness that the United States shall receive these dyes, this Government, while it can receive them, is not in a position suitably to dispose of them without specific legislative authorization. In June, 1922, Senator Shortridge introduced in the Senate a resolution authorizing the President to take such measures as might be required to secure for the United States or its nationals the dyes in question (Exhibit 27). This resolution, however, has not been acted upon in the Senate.

In view of the informal inquiries which this Government has made with respect to the possibility of obtaining these dyes on Army cost account, it seems probable that the question of the attitude of this Government in the matter will be raised at the forthcoming conference. In case this question is raised by your colleagues, you may discuss an arrangement by which the Allied Governments should assent in principle to the receipt by the United States without payment of the dyes in question, if and when the United States should so elect, the value of any dyes thus received to be applied

[78] *Foreign Relations*, 1920, vol. II, pp. 454, 495, and 501.
[79] *Ibid.*, 1921, vol. II, p. 29.

in reduction of the claim of this Government on the other Governments concerned in respect of its army costs.

It is difficult to estimate the possible yield to the United States Government through the receipt of such dyes. Mr. F. S. Dickson, who has been engaged by this Department as an expert to study the question, is of the opinion that under present conditions the total annual value of the dyes likely to be utilized by the United States could be estimated roughly at $500,000 (taking the prices at which the dyes are credited to Germany under the treaty).

If there were added to the above mentioned amount the possible profit on the sale in the United States, which would represent the difference between the gross selling price in the United States and the amount credited to Germany minus the expenses of carrying out the operations, the total credit obtainable would be perhaps $1,000,000 annually. However, so far as this Department is informed none of the Allied Governments have credited to Germany any profits that they may have made on the sale of dyes, and since the suggestion that this be done in the case of the United States might perhaps not be viewed with favor by the American interests concerned, which might allege that they were being charged relatively high prices for dyes to discharge an obligation of the German Government, it is my opinion that the possibility of crediting to Germany any possible profits on the sale of the dyes in question in the United States need not be considered at the present time. I may add that a suggestion that the accumulated surplus money of the Textile Alliance be applied in reduction of this Government's claim for army costs, which suggestion was very informally submitted to the Textile Alliance, and was rejected by that organization.

Other Payments in Kind

It appears possible that it may be advisable in the future that arrangements be made by which the Government of the United States should receive from Germany payments in kind other than dyes, on army cost account. The Department does not desire you to initiate any specific suggestions on this point. If this question should be raised by your colleagues, however, you should consult the Department at once by telegraph.

Suggestions That May Be Advanced by the Allied Representatives That Would Not Be Acceptable to This Government

The memorandum presented to the Secretary on November 8, 1922, by the Diplomatic representatives of Great Britain, France and Italy, (Exhibit 9), stated that the presence of a representative of this Government at the forthcoming conference at Paris "would enable

the Allied Governments to obtain full information on certain aspects of the question in regard to which they are at present in some doubt." The Department of State is not aware of the questions with respect to which the Governments concerned may desire to be informed, or of the suggestions which they may advance in the matter. In case however the suggestion should be advanced that the United States should be reimbursed for its army costs (1) out of ex-German property held in the United States, or (2) by applying on the claim of the United States the value of ex-German ships acquired by this Government under the terms of the Joint Resolution of Congress dated May 12, 1917,[80] or (3) by acceptance of bonds of the German Government, you should state definitely that you have been instructed by your Government to say that none of these suggestions would be acceptable.

For your further guidance in this connection I believe it desirable to set forth the following considerations:

Ex-German Property in the United States

I may say, for your confidential information, that it appears, in view of the terms of the Treaty Establishing Friendly Relations between Germany and the United States, proclaimed November 14, 1921, that the Government of the United States has a technical right to look to Germany for payment of the costs of its army of occupation, and accordingly this Government could, if necessary, apply the value of the ex-German property held by the United States in satisfaction of this as any other claim. However, such a course would clearly be inequitable, in view of the fact, as pointed out above, that the German Government has already paid over sufficient amounts to discharge its entire obligation in respect of costs of the armies of occupation. Therefore, while not disposed to waive the technical right of this Government, which at some time it may conceivably be necessary to assert, I feel that it is inappropriate that the matter of the ex-German property in question should enter into the forthcoming discussions. If, therefore, the suggestion is made to use this property in payment of costs of the American Army of Occupation, you should state definitely that such a solution could not be considered in any way by this Government.

As you know, the Government of the United States has not demanded participation in general reparations being received from Germany. The fact that the United States has refrained from presenting such a demand is obviously of great importance to the Allies, inasmuch as thereby they are enabled to distribute, for themselves, pay-

[80] *Foreign Relations*, 1917, supp. 2, vol. II, p. 1257.

ments received from Germany on reparation account. Specifically, the ex-German property in question is a pledge of the payment of unsettled American claims against the German Government, the claim for army costs being of an entirely different character.

Furthermore, it is repugnant to principles for which this Government has repeatedly contended to consider the confiscation of such private property for the purpose of discharging any obligation whatsoever of the German Government. The matter, as you realize, is specifically reserved to the Congress under existing legislation, and it appears certain that the Congress would not be disposed to resort to confiscation unless it should appear absolutely necessary. In view of the fact that Germany has already paid to the Powers concerned an amount more than sufficient to cover the total amount of costs of armies of occupation, and, further, in view of the fact that this Government has not sought to participate in the distribution of reparations, it is most improbable that the Congress would give favorable consideration to the suggestion in question.

For your further information in this connection, however, I may set forth the position heretofore taken in the matter by this Government.

The Reparation Commission from time to time has requested information concerning the amount of ex-German property taken over by the United States. While the Department on several occasions has authorized Mr. Boyden to inform the Reparation Commission orally of the amount of such property estimated to be held at the time, it instructed him in a telegram of January 11, 1921, (B–192)[81] also to state "that this Government does not recognize any obligation to furnish this statement at this time but does so merely for the Commission's informal information." (For your own information it may be stated that according to the Department's information the amount of ex-German property held by the Custodian as of about December 15, 1922, was estimated by him to be approximately $274,000,000).

Mr. Boyden telegraphed to the Department under date of August 2, 1920, (B–182)[82] that in his opinion an effort would be made to get the United States to apply on its army costs the value of ex-enemy property and ships. The Department instructed Mr. Boyden under date of September 1, 1920, (B–107)[83] as follows:

"Idea should be discarded that balance due on ex-German ships and balances in hands of Alien Property Custodian will be available for army costs. All of this property is subject to control by Congress and no action can be taken until Congress provides legislation."

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[81] Not printed.
[82] *Foreign Relations*, 1920, vol. II, p. 415.
[83] *Ibid.*, p. 430.

In this connection it may be stated that under the Trading with the Enemy Act, the final disposition of enemy property taken over by the Alien Property Custodian is a matter to be determined by Congress. The Treaty of August 25, 1921, between the United States and Germany, restoring the friendly relations existing between the two nations prior to the outbreak of war, accords to the United States and its nationals rights and advantages stipulated for their benefit in the Joint Peace Resolution of Congress of July 2, 1921,[84] and in the Treaty of Versailles. Under the terms of Section IV of Part X of the latter treaty, the United States would be warranted, if it saw fit, in using the proceeds of German property taken over to pay debts of German nationals to American citizens, and to pay certain classes of claims against Germany, but there is nothing in this treaty, the Joint Resolution of July 2, or the treaty of August 25, 1921, which removes from Congress the final determination of the disposition to be made of enemy property. In fact the Joint Resolution of July 2, provides, among other things, that the property of the German Government or its successor or successors and of all German nationals held by the United States is to be retained until Germany shall have made suitable provisions for the satisfaction of American claims against that Government, it being specifically stated that no disposition of this property shall be made without specific authority of Congress.

Ex-German Ships Seized by the United States

With regard to ex-German vessels, it may be stated that title to these vessels was taken by the United States in pursuance of the Joint Resolution of May 12, 1917, (exhibit 29). This Joint Resolution provided for the appointment by the Secretary of the Navy of a commission to ascertain the actual value of each vessel, its equipment, appurtenances and all property contained therein at the time of its taking, and to make a written report of their findings to the Secretary of the Navy. The resolution further provided that "these findings shall be considered as competent evidence in all proceedings on any claim for compensation."

This Department is not informed of the valuation placed by the Navy Department on these vessels. While they were not taken over under the Trading with the Enemy legislation and have not come within the jurisdiction of the Alien Property Custodian, it is understood that, nevertheless, that officer carries them on his books at an arbitrary valuation of approximately $34,000,000. No provision has

[84] See telegram no. 1231, July 5, 1921, to the Commissioner in Berlin, *Foreign Relations*, 1921, vol. II, p. 3.

been made by Congress for the payment of claims against these vessels, whether made by Americans or nationals of other states. Although, as already indicated, these vessels were not taken over under the Trading with the Enemy Act, their status so far as the treaty with Germany is concerned is not dissimilar to other German property taken over and the remarks made above, with regard to the payment of costs of armies of occupation from German property taken over in the United States, are therefore applicable.

In this connection attention may be called to a decision adopted by the Reparation Commission on July 12, 1921, to the effect that German ships seized by Peru were not on January 10, 1920 [when the Treaty of Versailles came into force][85] German ships, and therefore, were not deliverable to the Allied and Associated Powers under Annex 3, Part VIII, Treaty of Versailles. This decision of the Reparation Commission which was followed in the case of vessels seized by Brazil, is of interest to this Government in that it indicated what the action of the Reparation Commission might be should the question of the title of the United States to enemy vessels seized in this country ever come before it.

The position of the United States in the matter is, in brief, that the title to these vessels was acquired by the United States prior to the negotiation of the Treaty of Versailles by virtue of the action taken pursuant to the Joint Resolution of Congress of May 12, 1917, and, therefore, that Germany had no title to the vessels at date of the signature of the Treaty, and was consequently unable to dispose of them. Therefore, they are not within the classes covered by Annex 3, Part VIII, which sets forth the classes of vessels to be delivered by Germany to the Reparation Commission.

In view of the foregoing, if the subject of applying the value of ex-German ships seized by the United States to army cost account should be raised, you should state definitely that this subject is one which the Government of the United States cannot consider in this connection. If, however, this question should be presented as a mere question of equity apart from legal or technical questions, you should refer again to the considerations set forth above under the head of ex-German property, such as that the Government of the United States is not seeking general reparations from Germany, and that the German Government has already paid to the Powers concerned sums more than sufficient to discharge the entire costs of armies of occupation, and mention the fact that there are still outstanding a large amount of American claims against the German Government.

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[85] Brackets appear on the original.

Suggestion of Possible Delivery to the United States of German Bonds in Settlement of Army Costs Claim

It further appears possible that the suggestion that German bonds of some sort be delivered to the United States in settlement of the Army cost claim may be put forward. In this event, you should state definitely that such a solution of the matter would not be acceptable to this Government.

In addition, it appears possible that other suggestions may be advanced in the course of the Conference that would not be feasible from the point of view of the United States under existing conditions, such, for example, as the suggestion that the United States should adopt legislation along the lines of the so-called British Reparation Recovery Act of March 24, 1921, (Exhibit 28), which provides that persons importing German goods into Great Britain shall pay over to the British Government a portion of the purchase price thereof, this sum being applied toward the discharge of obligations of Germany under the Treaty of Versailles, the equivalent of sums paid over to the British Government being paid to the German exporter by the German Government.

Summary and Conclusions

I may now summarize the foregoing in the following manner:

(1) The Government of the United States considers that the other Governments concerned have no disposition to question its right to receive payment of its army costs on an equal footing with those Governments. Therefore, you should concern yourself primarily with consideration of practicable means for the payment of the claim.

(2) In view of the foregoing, you should, at the opening of the Conference, express to your colleagues, on behalf of this Government, suitable appreciation of their desire, as evidenced by the calling of the Conference, to arrange for the reimbursement of the army costs for the United States. You should, also, state that you have noted with pleasure the statements in the memorandum of November 8, 1922, (exhibit 9) and in the replies of the Allied Governments to the communications of the United States Government on this matter, to the effect that it is not the intention or desire to raise any question with respect to the right of the Government of the United States to be reimbursed on an equal footing with the other Governments concerned, which have already gotten from Germany receipts substantially in excess of the total army costs of all the Powers concerned

in the occupation, and add that you will be happy to receive and discuss any suggestions that they may care to make as to practical means by which the claim of the United States should be met.

In the event, however, that the representatives of the Allied Powers should have no suggestions or plan to submit, you may, as a basis for discussion, propose the suggestions previously advanced, in an informal way, by the American Ambassadors at London and Paris and through Mr. Boyden, to which reference has been made above.

(3) So far as the Department of State is informed, there is no disposition on the part of anyone to question the figure of the claim of the United States. You should therefore endeavor to obtain formal recognition by the respective Governments of the amount of this claim as of October 31, 1922, or if practicable as of a later date, and also procure their acceptance of a definite procedure for agreeing upon a definite and final figure at the earliest practicable date.

With respect to the allowance of interest on the claim of the Government of the United States, it is felt that, provided the respective Governments similarly concerned do not insist upon claims for interest, and provided further that the United States receive assurances of a prompt and satisfactory settlement of its claim, this Government would not be disposed to insist upon the payment of interest, subject always, of course, to the considerations set forth in the latter part of the section above dealing with the question of interest charges.

(4) You may state that the Government of the United States is prepared to admit a charge, on army cost account, with respect to the German war material that came into the hands of the American army east of the armistice line, making it clear that this Government reserves for further consideration and discussion the question of the fair value with which it should be charged and making it clear also that any charge to the United States must be on an equal footing with the other Powers concerned.

(5) With reference to payments thus far received from Germany, it is felt that the sum of 300,000,000 gold marks should be paid over to the Government of the United States. It may be arranged that such payments be made in installments, along the lines indicated in a general way above. With respect to the discharge of the balance of the claim of this Government, you will, of course, make clear that the Government of the United States looks to the other Governments concerned that have received from Germany payments in excess of the total amount of their army costs to arrange suitable means of payment, in accordance with a plan to be agreed upon. Without laying down any hard and fast rule, it is believed to be advisable

that you should invite the representatives of the other Governments to make proposals as to a practical means by which the claim of this Government may suitably be discharged in a reasonable time.

With respect to dyes, in case this question should be raised by your colleagues, you may discuss an arrangement by which the respective Government would assent in principle to the receipt by the United States of the dyes in question without payment, if and when the United States should so elect, the value of any dyes thus received to be applied in reduction of the claim of the United States against the other Governments in respect of its army costs. You may similarly discuss the possible receipt, should this Government so elect, of other payments in kind.

(6) In the event that the representatives of the Allied Governments should advance the suggestion that the United States should be reimbursed on army cost account out of ex-German property held in the United States, or by applying the value of ex-German ships acquired by this Government, or by acceptance of German bonds, you should state definitely that you have been instructed not to enter into any discussion of these matters, since suggestions of the character indicated would not be acceptable to this Government. The same would apply in the event that it should be suggested that the United States adopt legislation along the lines of the British Reparation Recovery Act.[86]

(7) You are not authorized to make any engagements on behalf of the Government of the United States, but only to discuss matters relating to the payment of the costs of the American army of occupation with the representatives of the Governments concerned. When you have reached with them informal understandings along the lines of the present instruction, or in case differences of opinion should develop on the respective points, you should promptly report the situation by telegraph to the Department of State, which will thereupon instruct you in the premises.

(8) You should keep the Department promptly and fully advised by telegraph of developments, as the conference proceeds, and consult the Department fully before taking any definite position with respect to any matters that may arise not dealt with in the present instruction.

(9) The Department has instructed Mr. Herrick and Mr. Boyden to assist you as fully as possible in the course of the conference.

I am [etc.] CHARLES E. HUGHES

[86] Of Mar. 24, 1921; tax levied on German imports which was reimbursable by the German Government to the German exporter.

462.00 R 294/125 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 1, 1923—9 p.m.*
[Received March 2—3:39 a.m.]

108. W–2. Three-hour meeting at Quai d'Orsay today. Chairman Jean Tannery,[87] Sir John Bradbury,[88] Marquis Salvago Raggi,[89] M. Bemelmans,[90] and Mr. Whitehouse [91] with me. General attitude showed desire to cooperate and find solution. I stated that the United States did not understand Allied Governments desired to question validity of claim. Each representative substantially concurred with some reservations as to technical rights but no question of equity. Various methods of payment discussed at length. The general attitude was friendly but the amount of cash in sight at the present moment is not encouraging. I shall cable at length tomorrow. Wadsworth.

HERRICK

462.00 R 294/132 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 10, 1923—7 p.m.*
[Received 10:45 p.m.[92]]

122. W–6. The following proposition for settlement was unanimously made by the Allies.

1. The amount of the United States claim should be reduced: (*a*) by value of paper marks requisitioned, (*b*) by value of armistice material which is estimated at a maximum of 59,000,000 gold marks, (*c*) by part of the value of German ships seized under the Act of the United States Congress, such amount to be arrived at in the following manner.

The tonnage of German ships shall first be used to rebuild American tonnage losses in the war up to the recent ratio of the replacement of tonnage lost in the war by Great Britain and France, which was accomplished from tonnage of German ships seized by Great Britain and France. Suppose for example that German seized tonnage had

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[87] Of the French Ministry of Finance.
[88] British representative on the Reparation Commission.
[89] Italian representative on the Reparation Commission; this seat at the Conference was later taken by the assistant representative, Signor d'Amelio, who signed the agreement of May 25.
[90] Belgian assistant representative on the Reparation Commission.
[91] Counselor of the American Embassy at Paris.
[92] Telegram in five sections.

replaced British and French tonnage loss to an average of 50 percent; then enough German seized tonnage should be applied by the United States to replace 50 percent of tonnage lost by the United States. The balance of tonnage remaining in the hands of the United States to be valued on the basis which was applied at Spa. Note I: Bradbury without further knowledge of the situation estimated the mean ratio at 50–60 percent and the deduction under 1[*c*?] at maximum of 90,000,000 gold marks. Note II: Details under 1(*c*), are very complicated, and involve question of ships that were seized by an act of war and put through the prize courts. Also various classes of tonnage subject to replacement and valuation. This is the first time German ships have been mentioned in the Conference.

2. Amount claim arrived at to be paid in twelve equal annual installments beginning 1923. Installments due first four years shall have priority on all cash paid by Germany in each year up to 25 percent. (*a*) If no cash paid by Germany no payments to be made to us. (*b*) If 25 percent of amount paid by Germany not sufficient to meet annual installment in any of first four years deficit not to be payable following year, but (*c*) at the end of four years total deficits shall be added to installments due last [eight years?] one-eighth of total deficits to each installment. (*d*) After four years annual installments shall have priority on payments cash by Germany up to 100 percent thereof. Deficits to accumulate and be immediately payable from future cash payments by Germany. (*e*) No interest allowed on installments.

3. Allies made reservation as to ownership of cash collected in occupied area. I gather they were not in accord as to final application cash accruing present Franco-Belgian operations.

4. British state that receipts under Recovery Act, although debited on books Reparation Commission, are treated as delivery in kind and not cash.

5. In short United States priority only as to cash received by Reparation Commission from German Government for distribution.

6. England claims that amount still due her account cost army of occupation 69,000,000 gold marks. France claims due her 145,000,000 gold marks. They give up priority on such claims until Belgian priority liquidated.

7. Allies ask United States to endeavor accept dyes in some way so as to reduce amount claim.

8. Exact legal procedure not determined. Bradbury suggested agreement between Allies one side, United States other side, covering proposed transactions. Allies would then turn over such agreement to Reparation Commission with instructions to carry out.

Comment 1. Presume deductions 1 (*a*) and (*b*) feasible.

Comment 2. Your instructions seem to prohibit deduction 1 (*c*). Allies pressed hard on this deduction claiming tonnage seized by United States to replace 50 percent of tonnage lost by the United tonnage seized by United States would have been deliverable to Reparation Commission except for special action Congress of United States. Status of some of ships taken over through prize courts still unsettled but understand in general such ships were not credited to account of Reparation Commission but do figure in replacement ratio. Am not familiar enough with this ship question to make recommendation.

Comment 3. United States receives no share in past payments by Germany. Allies very stiff on this point. Bradbury stated that money paid by Reparation Commission to the British Government now in Treasury could not be paid out without Act of Parliament. In view of recent settlement debt of the British Government to the United States [93] with burden imposed upon tax payers did not think Parliament would pass legislation. Other representatives quite definite that they could make no repayments. Convinced they are sincere and that demand on our part will indefinitely postpone any settlement. This point might be yielded as last resort in negotiating other points if you determine that a settlement without an immediate payment is feasible.

Comment 4. I have investigated the cash position of the Reparation Commission, find available practically no cash.

Comment 5. If we suppose United States claim to be 960,000,000 gold marks, the annual installment would be 80,000,000. The United States would receive installments due if Germany paid 320,000,000 annually the first four years. Inside the eight years if Germany paid 80,000,000 gold marks United States would receive installment due.

Comment 6. Made inquiry as to effect of a moratorium. This, Allies understand, would postpone payment the annual installment as provided paragraph 2.

Comment 7. Made inquiry as to the situation which would develop in case that Germany made no payments in cash for twelve years. In reply Allies stated that nothing would be received by United States.

Comment 8. Made inquiry as to what would happen if, through a loan or in some other manner, Germany should make any large payment in [cash.] Allies thought might arrange to clean up all installments due up to date of such payment.

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[93] See *Combined Annual Reports of the World War Foreign Debt Commission*, p. 106.

First query. Is United States willing to accept the principle of payment from receipts in the future alone?

Second query. With regard to installments, will United States insist on less than twelve? If so, how many installments?

Third query. Will more than 25 percent priority be asked by United States? For the sake of appearances I am inclined to suggest not and because 25 percent share sufficient if Germany makes a small substantial payment.

Fourth query. Should not deficit be payable immediately when funds available on any basis of installments: (*a*) Under terms of priority; (*b*) under priority for larger percentage which when deficit incurred would automatically accrue to the United States?

Fifth query. Could any assets now in Reparation Commission be taken by United States, such as securities of various corporations, the Bagdad Railway and the like, hold them as security with right of liquidating them? I shall investigate available assets, but doubtful whether such plan would be effective and what effect on public opinion it would have.

Sixth query. Would the Allies be likely to resort to various plans for payment in kind and reparation recovery, hoping thereby to divert cash from the Reparation Commission, or is the satisfaction of the claim of United States too small to be of important influence, the difficulty of agreement among the Allies too great for procedure of this nature?

The terms offered can be bettered, in my opinion. Representatives of Allies have shown sincere desire that settlement be reached. The next meeting will take place March 14. Wadsworth.

HERRICK

462.00 R 294/133 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 15, 1923—7 p.m.*

105. For Wadsworth. W–10.

With reference to paragraph 1 of your W–6, March 10, the United States Government is willing that the value of armistice material and requisitioned paper marks be credited. Your previous instructions fully cover these points. The crediting of the value of German ships would not be acceptable for the reasons given in your instruction of February 19. The equity of the position of this Government should be made clear by you.

With reference to your paragraph 2, it is noted that the proposed plan would give no assurance of the final discharge of the claim of the United States even within twelve years. In view of the fact that

the other Governments have actually been fully paid, and in view of the obvious justice of its claim, the United States should not be asked to accept a plan under which actual payment is not assured. The United States should certainly not be expected to waive its claim against the Allies by virtue of the receipts they have already obtained at our expense on the basis of any plan providing for payment of our claim from future receipts from Germany. This Government should retain its full claim without prejudice as at present, except to the degree that its claim is discharged by actual payments received, so that if Germany does not make the payments in which the proposed plan provides we shall share, this Government shall at least be none the worse off except as to time of payment. Otherwise the Allies should guarantee future payments on proportionate basis agreeable to them. Question of priorities and means for liquidating deficits in expected receipts from Germany would not be presented if such a guaranty were obtainable, and should an agreement be reached the United States will not demand interest provided the other governments receive no interest.

In connection with your paragraphs 3, 4 and 5, refer to Department's comment its telegram W–7.[94] This Government cannot accept the suggestion that receipts under the Reparation Recovery Act be regarded as deliveries in kind. The receipts are cash and are not kind, which results in the British Government obtaining cash for its Treasury and not property which must be disposed of. The suggestion originates in the second article of the Finance Ministers' Agreement of March 1922, but the fact that credits there mentioned include receipts does not alter the fact that the receipts are actually in cash. This Government sees no valid reason why the cash realized under legislation of this character, or by means of taxes levied in the occupied region, or otherwise, should be treated separately from other cash receipts. Furthermore, the United States was not a party to this Agreement. It is understood that under the Recovery Act Great Britain realized in November and December last about 12,000,000 gold marks a month.

With reference to your 6th paragraph, the balances alleged to be due on British and French account result from adjustments in accounting procedure, which modified the army cost priorities, and to which we were not a party. Apparently these adjustments were largely effected to show balance due to Great Britain and France. You should note in this connection that, as pointed out before, Great Britain is debited with the cash proceeds of the Reparation

[94] Not printed; the sentence referred to reads (in paraphrase): "The proceeds of reparation recovery acts, customs collections in the occupied zones and similar items should be included in future cash receipts."

Recovery Act as payments in kind in 1922 applicable to British army costs in 1922, but it is not clear whether the surplus proceeds are applicable to the reduction of British army costs as of May 1, 1921. The Finance Ministers' Agreement of March 1922 postponed the debit of the value of the Saar mines to France until 1922 in view of the fact that an earlier charge to France of this value would mean that French army costs had been fully extinguished as of the 1st of May 1921, and that France would then have been in no position to claim the 140,000,000 gold marks paid over under the arrangement mentioned. The Department adds that the Spa priority on coal advances, which priority the United States Government has never recognized, has resulted in modifications of reparation accounts which, distinct from the foregoing considerations, have resulted in showing credit balances due Great Britain and France that would not otherwise have existed. Boyden can inform you on these points more fully, and it is suggested that you consult him. In the light of the foregoing you may point out to your colleagues that the United States is not a party to any arrangements modifying the original plan of army cost priority, and does not consider that its claim is on the same footing with the British and French claims for unpaid balances. You may also point out that the other governments have all received from Germany more than enough in cash and kind to meet their claims for army costs.

The Department's comments in its W–4 of March 3, on paragraph 4 of your W–3 [95] cover your paragraph 7.

With reference to your paragraph 8, inasmuch as this Government looks to the Allies for settlement of its claim, it would continue to look to them even though they should instruct the Reparation Commission to carry out the terms of the agreement in whole or in part. If the final settlement should involve the payment of cash immediately, or a guaranty by the Allies, the Reparation Commission would presumably not be involved except perhaps as the agent of the Allies. The questions raised by your comments no. 1 and no. 2 are answered by the foregoing.

With reference to your 3d comment, the Department does not understand that the British Government could not pay out money received by it except by Act of Parliament. This money was received and distributed subject to an express reservation of the United States rights in the matter. The thirteenth article of the March 1922 Finance Ministers' Agreement provides "the present agreement is made subject to any rights of the United States." The distribution has, therefore, only been made provisionally.

[95] Neither printed.

Your difficulties in negotiating on this point are fully realized, and if, despite your efforts, you are satisfied that the procurement of an immediate payment on account is impossible, and that further insistence would result in the breaking up of the conference, you may yield on this point, advancing as your reason the financial and economic difficulties of the other governments and, so far as Great Britain is concerned, the recent debt settlement, provided, however, it be understood clearly that a plan be devised affording reasonable probability for definite repayment of the claim of the United States within ten or twelve years, and providing that unless a suitable guaranty is given it be understood expressly that this Government does not in any way release its claim against the Allies on account of payments already received by them from Germany, but merely suspends its claim for the time being in view of the conclusion of an alternative arrangement by means of which the realization of full payment is expected.

The United States is anxious to have it clearly understood in any discussion of these points that it has no desire, in view of all the circumstances, to be harsh or unreasonable, but that it is seeking merely for an equitable adjustment of the question. The dwelling upon technical questions should not be necessary. Inasmuch as the Allies recognized our right to be paid they cannot properly insist that we waive our claim in the event that Germany should not in the future pay enough to discharge it, and in the event that it developed that all the money available was held by the Allies.

It is indicated from press reports from Paris that it has been pointed out in certain quarters that this Government is not assisting in the collecting of money from Germany. This is not relevant to the question under discussion since the question involved is what the Allies have already received, and not what they are trying to collect.

The Department has noted your comments 4, 5, 6 and 7, and has set forth its suggestions on these points above.

With reference to your 8th comment, if a German loan is floated and a large payment results from it, or from other sources, it should at least cover any arrears as may exist.

With reference to your first query the answer is "yes", if absolutely necessary and without waiver, thus preserving this Government's claim as stated above. The guaranty should be obtained if possible. The amounts involved would not be large and the respective governments could recoup this through setting off the value of deliveries in kind and receipts in cash classified as such against any payments made by them on this account.

With reference to your second query, the answer is "no", but you should note the suggestions made above. Certainly there should not be more than twelve installments.

With reference to your third query, it is believed that the percentage should be bettered, but the matter is left to your judgment. The United States will accept 25 percent for the first four years if in your opinion this is the best obtainable. It is believed that the Allies should provide that any deficiency in cash payments should be compensated by paying us an agreed proportion of the value of receipts in kind obtained by them or should give a guaranty. If, however, you find neither of these courses possible, the claim of this Government should be retained unaffected except as actual payments are received by it. It is presumed by the Department that the 25-percent suggestion grows out of a desire to permit the realization by Belgium on its priority arrangement. Should this question be presented you should note that the priority agreement of June 24, 1919, and its annex make it clear that the Belgians have no priority over "the priority accorded by Article 235, in respect of the expenses of the armies of occupation." It is possible that British and French Governments may be influenced in willingness to recognize Belgian priority by the foregoing accounting adjustment referred to.

With respect to your fourth query, the answer is "yes", and the working out of the priority problems referred to under this head is entrusted to your recommendation.

With reference to your fifth query, the answer is "no."

With reference to your sixth query, the Department believes there is little or no danger from the suggested dependence on payments in cash, but a clause by which, under certain conditions a portion of the value of deliveries in kind should be applied to our army cost claim (provided no guaranty is obtainable) in case deliveries in kind exceed a certain figure or ratio to payments in cash might possibly afford a desirable protection against the eventuality suggested by you.

It is noted that in your opinion there can be an improvement in the suggested terms. You will understand that the working out of details is left to your discretion subject to the foregoing points.

HUGHES

462.00 R 294/144 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *March 23, 1923—5 p.m.*

[Received 11:48 p.m.]

141. W–9. Following is translation of plan presented by Allies. My comments follow in another telegram.[96]

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[96] Not printed.

"Costs of the American armies of occupation. Draft. The present agreement is concluded between the Government of the United States of the one part and the Governments of Great Britain, France, Italy and Belgium of the other part subject to the approval of the Governments of the other Allied Powers entitled to participate in the payments affected by the present agreement.

The Governments of Great Britain, France, Italy and Belgium agree to make every effort to obtain this approval.

1. The American Government declares that the fact of its accepting a method of settlement for the amount of the costs of the American armies of occupation in Germany by means of future annuities must not be considered as a renunciation on its part of the right which it considers it possesses to claim an immediate payment from the Allied Governments from the sums already received by the latter from Germany.

The American Government on the contrary desires to state that it reserves the right at any moment in the course of the execution of the present agreement and in case it would deem that this agreement is not working in a satisfactory manner to claim from the Allied powers an immediate payment from the payments already received from Germany by the other countries.

The Allied Governments take note of the reservation of the American Government but state that in case the American Government should deem it advisable to annul the present agreement they reserve the right to discuss the juridical bases of the debt itself.

2. The net amount due to United States for the costs of their armies of occupation will be for the purposes of the present agreement reckoned as follows:

Expenses up to date such as they figure in the accounts of the Reparation Commission after deduction of the amount received in the form of the requisition of paper marks, et cetera, and of the value of the armistice material ceded to the Government of the United States.

The value of this material to be fixed by the Reparation Commission in agreement with a representative of the American Government.

The renunciation by the Allied Governments, valid solely in respect of the present agreement, of their request to see certain receipts realized by the American Government as a result of the war deducted from the sum total of the cost of the American armies of occupation, is made without prejudice to the question of principle and with a view to settling by mutual agreement the payment of the cost of the said armies.

The Allied Governments reserve the right to raise this question again in case the American Government should deem it advisable to use the right which it has reserved by virtue of paragraph 1.

3. The net amount due to the Government of the United States will be paid in 12 equal yearly installments, the first yearly installments to be paid in 1923. No interest shall be charged.

These payments constitute a first charge on the payments of every kind carried to the credit of the Reparation Commission account and

made every year by Germany or for the account of Germany to the Reparation Commission or to any other body which might be appointed in order to receive the moneys paid by the German Government with the exception of

(*a*) Deliveries in kind effected under the terms of the various annexes of part eighth of the peace treaty or any other procedure approved to date by the Reparation Commission to the Allied countries possessing credit on account of reparations.

(*b*) Proceeds from the British Reparation Recovery Act or any similar measures taken or to be taken by the other Allied Governments in pursuance of the decision of the Allied Governments of March 3, 1921.

(*c*) Transfers and cessions of property rights and interests made in execution of the peace treaty.

If in the course of one year between 1923 and 1926 inclusive the amount of the sum due to the American Government exceeds 25 percent of the total payments as they are defined above the amount of the payment to be made to the United States will be reduced to a sum equivalent to 25 percent of these payments and one eighth of the sum deducted will be added to each of the future payments to be made in the course of the years 1927 to 1934 inclusive.

If in the course of any year after 1926 the said payments in the course of any determined year should be insufficient to satisfy the amount due in the course of that same year the arrears will be carried over and added to the sum due in the course of the following year.

If at the end of the year 1928 or of any year following the arrears have reached such an amount as might in the opinion of the American Government endanger the complete execution of the payments within the period of 12 years the Allied Governments upon the request of the American Government will consider such modifications of the present agreement as might seem necessary in order to insure the complete execution of the payments within the period of 12 years.

The Allied Governments however reserve all their rights in respect of the payments in kind and in cash which might be collected through the intervention of any Allied authority in occupied territories.

4. If during the period of the operation of the present agreement Germany obtains a loan for the purpose of hastening the discharge of her reparation obligations the Allied Governments undertake to hand over to the American Government on account of the expenses of the American army of occupation 20 percent of the amount of the said loan affected to reparations this levy of 20 percent will however only be taken out of the amount of the loan floated in the United States or out of the share of an international loan subscribed in the United States.

The sums thus given over to the American Government will be considered as anticipatory payments of the annuities fixed according to paragraph 3 of the present agreement due account being taken of the clause affecting the payments due for the years 1923 to 1926 inclusive.

No discount shall be charged for such anticipatory payments.

5. The charge upon the payments in cash to be received from Germany and set up by the last part of article 8 of the inter-Allied agreement of March 11, 1922, on behalf of the unpaid balance of the costs of the British and French armies of occupation up to May 1, 1921 shall only apply to the balance if such there be of the German payments after payment of the monies due to the United States in execution of the present agreement.

6. The American Government will take the necessary steps in order to agree that such quantities of German dye stuffs which may be fixed from time to time in agreement with the Reparation Commission shall be paid by way of deduction from the yearly payments to be made to it."

Wadsworth
HERRICK

462.00 R 294/144 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 25, 1923—9 p.m.*

118. For Wadsworth. W–12. Your W–9, March 23.

Paragraph 1. The agreement should not be entered into subject to the approval of those governments who do not participate in the conference, but of course it cannot affect their rights unless they assent thereto. Under this procedure the agreement would be effective only as to the portions of German payments attributable to the governments participating in the agreement, namely about ninety-four percent. It should not fail to become effective because other powers refuse their assent. Nevertheless, an effort should be made to obtain their assent; and the Allies participating in the agreement should agree to endeavor to obtain that assent as set forth in the second sentence of the paragraph under consideration.

Section 1. The reservation of our rights seems adequate but it is suggested that the following words be eliminated "an immediate" in both first and second paragraphs so that the text would read "claim payment".

Section 1, paragraph 3. The phrase "they reserve the right to discuss the juridical bases of the debt itself" is not entirely satisfactory, the following seeming preferable: "they reserve all their rights without prejudice by reason of this agreement".

Section 2, paragraph 2. Following words should be omitted "et cetera". If other deductions are contemplated proper descriptions thereof should be made.

Section 2, paragraph 3. Instead of the words "to be fixed by the Reparation Commission in agreement with a representative of the American Government" the following phraseology is preferred "to be fixed by agreement between the Reparation Commission and the American Government".

Section 2, paragraphs 4 and 5. The statement and reservation seemingly relating to sequestrated property and ships is objected to. The United States will not consent to the application of these items to army costs while the Allies obtain in addition to reparations the costs of their armies. The special Allied reservation raises a question which should not be pressed in the light of the American Government's generous terms. Furthermore, the general reservation proposed above for the third paragraph of section 1 fully protects the Allies in case of a failure of the present agreement.

Section 3, paragraph 1. The second sentence should read "no interest shall be charged except on same basis as interest may be allowed on army costs to any Allied Governments and also except as hereinafter provided".

Section 3, paragraph 2. This paragraph should read: "These payments constitute a first charge on the payments of every kind carried to the credit of the Reparation Commission account and made every year by Germany or made for the account of Germany to the Reparation Commission or to any other body which might be appointed in order to receive the moneys paid by the German Government or payments made directly by Germany or on Germany's behalf to any Allied Government party to this agreement with the exception of."

Subparagraph (*a*) of the third section. It is our understanding that the only deliveries in kind in question are those to be made under the annexes of part VIII of the Treaty of Versailles and special agreements made heretofore and that this clause will not permit the negotiation of future agreements for additional deliveries in kind which would be effective at the expense of the payments which we should receive. In order to avoid misunderstanding, however, it would be better if such special agreements should be listed or described in some appropriate schedule and since under these agreements the amounts of deliveries in kind may be increased at the will of the parties thereto there should be an agreement that if deliveries in kind exceed a certain minimum value this Government should share in any excess of that minimum. The percentage of our participation in such cases might be arranged on a sliding scale proportioned on increasing value of such deliveries.

Subparagraph (*b*) of the third section. We think it most inequitable to except the proceeds of the British Recovery Act with

regard to future payments. A provision for our protection would do no harm if this act were repealed but would be important if not repealed. At the present rate the British receipts amount in cash to about seven times their net current army costs and we should have a proper share in these payments. You may point out that under the proposed agreement the United States is not insisting upon payments to which it is equitably entitled at the present time on account of the large cash payments which the British Government has already received. If it is fair that the payment of our claim be postponed because of the financial situation of Great Britain it is no less fair that the British should not continue in the future to take these heavy cash payments through the Recovery Act without permitting the participation of this Government in the benefit thereof.

After subparagraph (*c*) of the third section another subparagraph (*d*) could, in view of the proposed amplification of the second paragraph of section 3 as above, be inserted covering the exception of payments under the clearing house system in the following words: "(d) Payments under part 10, section 3, of Peace Treaty".

Section 3. In the paragraph which begins "if in the course of one year between 1923 and 1926" the word "calendar" should be inserted so that the clause will read "one calendar year between 1923 and 1926" and in the paragraph following the above paragraph in the place of "in the course of any determined year" should be inserted the words "in the course of any calendar year".

The next to the last paragraph of section three. The suggestion in your W–10 [97] for maintaining 12 year basis for deficits and interest at 4½ percent is approved.

Final paragraph of section 3. Apart from the fact that the words "through the intervention of" might be taken to include payments obtained in cash and in kind from sources outside of the occupied territory but through the pressure of the occupation this reservation is unsatisfactory as this Government sees no reason why Belgium and France should be permitted to retain reparation payments obtained by means of their intervention or from within the occupied territory without proper provision for American army costs being made any more than that other reparation payments should be so retained by them for the other Allies.

Section 4. The fact that difficult questions may be raised by a German loan is appreciated but we fear it would be impossible to draft at the present time a satisfactory clause which would cover all contingencies. The best solution it is believed would probably be

[97] Not printed.

to have a broad reservation as you suggest in the case of a German loan or a bond issue intended to cover reparation payments which reservation should be so phrased as to show clearly that equitable provision is to be made in such case to cover the payment of American army costs. The probable need for floating such bonds in our home market would give the necessary opportunity to secure a satisfactory adjustment in such event.

Section 5. It is not thought that there is great value to us in this. On the contrary it appears to sanction accounting arrangements not yet approved and should therefore be subject to our objections until the complete discharge of our claim. It is suggested that this section be omitted.

Section 6. The draft of this section seems to be mandatory. It should be clearly optional so far as the receipt of dyes is concerned. The following is therefore suggested in place thereof: "6. In case the American Government shall exercise its option to take its appropriate share of German dye stuffs under the provisions of the Peace Treaty or arrangements supplementary thereto, such quantities of dye stuffs as it shall receive at its option from time to time through the Reparation Commission shall be credited, at the value agreed between it and the Commission, upon the annual payment to be made to the American Government hereunder in the calendar year in which such dye stuffs shall be received."

In reply to your comment number five in your W–10 it is suggested that you cable at once the complete text of the agreement when it is put in satisfactory form. You can then receive final authority to sign. The signing should be done by you and not by the Ambassador. For your confidential information, there may be a delay of two or three days in order that the text of the agreement may be submitted to the President who is now in Florida.

In reply to your W–11,[98] the agreement should not be submitted formally or informally to the German Government.

HUGHES

462.00 R 294/148 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 26, 1923—11 a.m.*

[Received March 26—9 : 22 a.m.]

147. W–12. How low a rate of interest would you accept if you approve in principle of the plan for limiting loss by having the deficits carry interest to establish the basis of 12 annual install-

[98] Not printed.

ments? It is my suggestion that 4% would not appear to be too low and that we might even make it somewhat less. Wadsworth.

HERRICK

462.00 R 294/148 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 26, 1923—7 p.m.*

121. For Wadsworth. W–13. Your W–12, March 26.

The fixation of interest on deficits of the 12 annual installments at 4¼% is suggested. This is the average rate here and is also the rate payable on the three years' arrears of interest on the debt of Great Britain. If you should find it desirable, however, you may agree to a 4% interest rate.

In reply to your W–14 [99] you should send any further suggestions that in your opinion should be considered by this Government.

HUGHES

462.00 R 294/155 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *March 29, 1923—noon.*

[Received 5:25 p.m.]

156. W–15. Allies submitted modifications to their proposed agreement which I report as follows to give you complete text under consideration.

Section 3, next to last paragraph, after words "such modifications" insert "of the present article which may seem necessary to insure the complete execution of the payments within the prescribed period of 12 years, and in such a way that the loss suffered by the American Government on account of the fact that no interest is credited to its account does not exceed what it would have been if the payment of the balance remaining due at the end of 1926 was effected in 8 equal yearly installments beginning in 1927."

Section 4, paragraph 1, "the Allied Governments will deliver to the American Government on account of the payments for the expenses of the American army of occupation, and in the amount of the sums still due under this heading, 20 percent of the amount affected to reparations from the total of the loans floated in the United States or from the share of an international loan subscribed in the United States."

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[99] Not printed.

Section 4, after last paragraph, insert "if as a consequence of a loan floated either in America or elsewhere a moratorium was granted to Germany, the Allied Governments would put themselves into communication with the American Government for the purpose of reaching an agreement which would not cause any prejudice to the American Government."

Section 6 should read as follows:

"In case the American Government should arrange in agreement with the Reparation Commission for the furnishing of certain deliveries in kind to be made by Germany, the American Government would take the necessary measures so that the value of these deliveries should be deducted from the payment to be made to the Government of the United States in the course of the year, when the deliveries have been effected.

In case the Government of the United States should establish a reparation recovery act or any similar measures, the proceeds resulting therefrom would likewise be deducted from the payment to be made to the Government of the United States in the course of the year in which these proceeds were collected.

If in the course of a determined year the value of the deliveries in kind furnished to America by virtue of the present paragraph or the proceeds of the American reparation recovery act, or both together, exceeds the yearly installment due to the American Government, the excess shall be considered as an anticipatory payment of the yearly installments fixed as stated in paragraph 3 of the present agreement, account being taken of the clause affecting the payments due for the years 1923 to 1926 inclusive.

No discount shall be charged for such anticipatory payments."

Wadsworth
[Herrick]

462.00 R 294/156 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, *March 29, 1923—1 p.m.*
[Received 7:28 p.m.[1]]

157. W–16. Department's telegram W–12, March 25.

At the conference yesterday it was felt essential by the Allies that the approval of other nations interested, namely Japan, Portugal, Greece, Rumania and Serbia, be obtained. The Allies were confident that such approval was obtainable and will place a two months' time limit on the obtaining of consent, the agreement to be reconsidered or to fall if such approval refused. Although this not satisfactory I could get nothing better.

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[1] Telegram in two sections.

The words "an immediate" were eliminated in accordance with your instructions.

With reference to section 1, paragraph 3, there was a long technical discussion on the general question of the reservation of rights. The matter was left with the understanding that the Allies will attempt to draft a single clause covering all the reservations on both sides, which clause shall go at the end of the agreement. The same provision applies also to the second, fourth and fifth sections.

With reference to section 2, paragraph 2, the word "et cetera" has been eliminated.

With reference to section 2, paragraph 3, there was also a hair-splitting discussion because technically the Reparation Commission has the authority to determine the amount but I think this can be arranged.

With reference to section 3, paragraph 1, the wording you requested was discussed at length. According to the French this would prevent them from ever charging interest on future army costs. The Allies are willing that the clause read that if interest is hereafter charged during any period the United States shall also receive interest on the balance still due from the same date.

With reference to section 3, paragraph 2, your wording was accepted. I asked for the insertion of the following words after the word "account", namely "for army costs or reparations". As under the treaty the Allies consider the costs payable in cash and the special agreement which expired December 31 provided for payment by deliveries in kind, this insertion is important. In previous conferences it was clearly understood that our priority applied to all receipts of cash. There was objection to this by the Allies, but they admitted that if only payments on reparation account were considered available our priority would be nullified. The Allies will try to draft a new formula by which they will agree to accept payments in kind for all army costs taking cash only, if payments in kind are insufficient. I would like full instructions on this point as this is an important matter.

With reference to section 3, subparagraph (*a*) I will endeavor to have existing approved agreements listed and others barred. Your suggestion for agreement as to excess deliveries in kind met the same objection as before, namely that deliveries in kind are not cash and are not convertible into dollars. My point was seen by the Allies but they argued that as this agreement must be made public it would be for political reasons impossible to mention either a percentage as between deliveries in cash and in kind or a certain limit for deliveries in kind. While some suggestion as to the formula covering this point may be obtained, I doubt if a satisfactory one will be found.

With reference to section 3, subparagraph (*b*) there was an absolute refusal by Bradbury to consider any change. Our position is understood by him but he says the British cannot agree to put any cash collection under any priority. If the British ultimately collect more than their percentage of reparations and should pay the balance to the Reparation Commission the priority would apply. But this is a most doubtful contingency.

Section 3. The covering of clearing house payments was not discussed. The word "calendar" was inserted in section 3 next to the last paragraph. Your W–13, March 26, also noted. The suggestion of the Allies contained in my W–15, March 29, noon. They objected to the 12-year basis and to agreement that deficits should carry interest at a fixed rate, but recognized our right to interest on the 8-year basis which is something. Please let me have your views on this point.

With reference to section 3, last paragraph, I could obtain no satisfaction on this point. The clause seems to be first that France and Belgium reserve their rights, etc. England then insisted on the reservation of her rights and Italy followed. The Allies agreed that the clause might mean a different thing for each of them. At first Bradbury suggested we might join in the reservation as England would like our cooperation and as our interests would certainly be the same as England's. There is little chance of altering or eliminating this clause.

With respect to section 4 you are referred to my W–15 for suggestion of ample guarantee; there was not time to discuss this matter.

The meeting lasted for four and a half hours and there was a most frank discussion but when it comes to putting in writing our verbal understandings, the Allies are united and very wary. The next meeting is to be held on Wednesday the 4th of April. Wadsworth.

HERRICK

462.00 R 294/156 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 31, 1923—3 p.m.*

129. For Wadsworth. W–14. This telegram is in reply to your W–16, March 29, 1 p.m.

It cannot be admitted by this Government that the present agreement which is made between powers which have already received large amounts for army costs in which amounts we were equitably and admittedly entitled to share and which represent 92% of reparation payments, should be affected by possible objection by the other

powers mentioned. In no way has this Government ever assented to the modification of the original agreement providing for priority of army costs and it sees no reason why a veto power should be given to Japan, Portugal, Greece, Rumania or Serbia in any arrangement made with the governments which have been paid at its expense. There should be a clear understanding that in entering into the present negotiations this Government did so with the understanding that the other parties to the negotiations were disposed to make an equitable settlement. It had no idea that any such settlement should be subject to delay or final disapproval and nullification by the attitude of any one of the powers mentioned. No such position will be admitted by this Government nor will it be agreed to.

The other powers mentioned should have been invited to take part in the negotiations if there had been any intention to make the settlement depend upon their action. They are placed in a position of superior advantage to which their interest in no way entitles them if they are given a veto power after a settlement has been reached. You should strongly impress upon the delegates the fact that this Government has not entered into negotiations for the purpose of reaching an arrangement which other powers might destroy but rather to effect a settlement.

It should be particularly noted that in the March 11, 1922 agreement of the Finance Ministers, the signatory powers merely made provision in article 14 for seeking the early adherence of other Allied and Associated Powers. The arrangement was not made subject to the approval of such powers. Whether all these powers have adhered to that agreement the Department is not informed, but that agreement is regarded by the parties to these negotiations as inviolable quite apart from such adherence. Subject to the clear understanding that the agreement is to be effective at least in respect of payments attributable to the governments participating in the present conference, I am prepared to accept a wording similar to that of article 14 in the Finance Ministers' agreement.

I have noted your comments on section 1, paragraph 3, and will await the receipt of the text of the clause proposed.

In the matter of your comment on section 2, paragraph 3, great difficulty should not be presented thereby.

With reference to section 3, paragraph 1, on the subject of interest I would be prepared, provided suitable provision is made as to deficits, to accept the suggested reading (but see the comments below on the proposed amendment to section 3 next to the last paragraph).

With reference to section 3, paragraph 2, now that the question has been raised, your suggested amendment is desirable but it is essential that there be a clear understanding that the proposed priority of the

United States shall apply in respect of all payments by Germany with the single exception of those enumerated specifically in the agreement.

The suggested new formula regarding the acceptance by the Allies of payments in kind for their army costs is approved by the Department. You may call attention to the fact that the accumulated costs of the American Army are not paid, that the accumulated Allied costs have been paid substantially even on the basis of their own accounting adjustments and that their current costs should be amply covered by deliveries in kind.

With reference to your section 3, subparagraph (*a*). The difficulty of converting deliveries in kind into dollars is appreciated as is that of the practicability of reaching an agreement for sharing in deliveries in kind when such deliveries exceed a certain percentage. The point remains, however, that this Government should not be limited for the first four years to 25% of the cash payments if the amount of such cash payments proves to be small in proportion to payments in kind. On the assumption that the United States does not share in the deliveries in kind received by the Allies there should be an increase in our percentage of cash payments if the greater part of the entire reparation payments consists of deliveries in kind. It is suggested that the provision for 25% for the first four years be limited to the case where reparation payments in kind in any year do not exceed 50% of the total. If they do exceed 50%, then our percentage of cash payments should be proportionately increased as total cash payments are diminished. No fixed schedule is proposed by the Department as this is left to you to negotiate on the best obtainable basis. The force of the argument against our sharing in deliveries in kind seems clearly to apply most during the first four years when we would have only 25% of priority and when, as compared with payments in kind, the cash payments may be very small. The situation is different when our priority on cash payments after four years amounts to 100% and probably there is reason to expect that the amount of our annual installments will be at least equalled by the cash payments.

With reference to your comment on section 3, subparagraph (*b*). The British position still seems most inequitable in view of their cash receipts under the Reparation Recovery Act, but if they insist upon this position it would seem that they were clearly obligated to support our suggestion as to increasing the United States share in cash receipts outlined above. You should also make it clearly understood that this point is yielded only because of the British debt settlement.

With reference to your comments on section 3 on the subject of interest on the deficits. It is noted that the right to interest is

recognized on the eight-year basis. I am not clear that the amendment suggested to the next to the last paragraph of section 3 quoted in your W–15 March 29, noon, recognizes our right to interest under the contingency specified. It is important that the meaning of the proposed amendment be clarified. In the event of deficits interest should be allowed.

With respect to your comment on the last paragraph of section 3. The elimination of this clause is not regarded as essential if you find it impossible to do so. But it should be made perfectly clear that the reservation applies only to actual collections in the occupied area and not to any general reparation settlement that might be reached.

With respect to your comment on section 4. It is still felt that the suggestion indicated in Department's W–12, March 26, on this point is the best solution. While it is most probable that in order to be successful any general loan must be largely subscribed in the United States, nevertheless the formal connection of this matter with efforts to meet American army costs is not deemed advisable, as this would give the appearance that there was an expectation that the citizens of the United States would indirectly provide funds for the payment of the army costs claim. Such a provision would produce an unfavorable impression if contained in the agreement, but it is quite fair to arrange as proposed by us, that the equities of the case should be taken into consideration in the event of a large loan.

With reference to your W–15 and the proposed section 6. The Department stands by its suggestion as to section 6 in its W–12 and does not agree to this proposal. The deduction of proceeds of a Reparation Recovery Act cannot be consented to while the British insist on retaining, not simply for their army costs but for reparations ahead of our army costs, the proceeds of their Recovery Act. In considering our position what they insist to be fair for themselves should not be disregarded. It should also be remembered that for the purpose of meeting the claims of our nationals against Germany, which may far exceed the value of the property in hand, this Government may find it advisable to adopt some such measures. We should not be limited in this respect as we are not seeking general reparations.

The suggested insert after the last paragraph of section 4 is not clear to me. I do not, however, perceive any objection. The following words, however, should be omitted: "floated either in America or elsewhere".

With respect to your letters of March 12 and March 19[2] on the subject of seized ships. It should be made clear in any discussion

[2] Neither printed.

that title to these ships was taken by the United States through Act of Congress prior to the signature of the treaty, that in no way do they come within the jurisdiction of the Allied Governments or the Reparation Commission, that the Reparation Commission decisions regarding ships taken by Brazil and Peru may be cited as admission of the principle underlying this Government's position and that it would be most inequitable, quite apart from legal and technical considerations, for the United States to be asked to make any reduction of its claim in the manner suggested, in view of the fact that it is not seeking general reparations to which it is as fully entitled as any of the Allied Governments. From the notes on the meetings I do not find that the equity of our position has been sufficiently made clear and if a further statement on this point has not already been made by you, I suggest that you do so.

HUGHES

462.00 R 294/158 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 3, 1923—10 a.m.*
[Received April 3—9:22 a.m.]

163. W–17. Department's W–14, March 31, 3 p.m. At the last meeting the Allies suggested as an alternative to signing the agreement subject to the approval of the other powers that the agreement be presented to the other powers for approval before its signature. I should like to have your opinion on this procedure tonight, but I shall take position as directed in the strongest possible way. The last sentence of your W–14 has been noted and I shall act accordingly. Wadsworth.

HERRICK

462.00 R 294/158 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 3, 1923—1 p.m.*

133. For Wadsworth. W–15.

This Government does not concur in the proposal suggested. It is felt that in any contingency the agreement should be effective at least in respect of that portion of future payments attributable to the Governments who are participating in the present negotiations and that it should not be in any way dependent upon the attitude of the other powers mentioned. I am unable to see any reason why

the substantial settlement of our claim should be dependent on the attitude of these other powers. At all events the Allies who have been paid at our expense have the responsibility to arrange this matter suitably.

HUGHES

462.00 R 294/173a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 7, 1923—6 p.m.*

140. For Wadsworth. W–17.

Inasmuch as this is the final date for giving notice of claims against the German Government to be presented to the Mixed Claims Commission, United States and Germany,[3] the Department has deemed it advisable to give notice of the claim for army costs. This is done in order to preserve all our rights, although the Government believes that it will actually be paid as a result of arrangements which you are now making. The Department did not think it advisable to allow any chance for a contention that the claim had not been presented to the Mixed Claims Commission. To this end I am this day sending the following letter to the American Agent of the Mixed Claims Commission.[4]

"You are hereby informed that the Government of the United States wishes to present to the Mixed Claims Commission, United States and Germany, the claim of this Government against Germany for the cost of the American army in occupied German territory. The said cost dates from the time of the signing of the armistice on November 11, 1918, and is based on rights accruing to the Government of the United States by virtue of the armistice agreement, the Treaty of Versailles, and the treaty of peace with Germany of August 25, 1921.

According to a report of the War Department this claim as of January 31, 1923, amounts to $255,544,810.53. It is understood, however, that this amount will be subject to adjustment in case a different basis is adopted for converting certain items into dollars. It is also understood that the claim will include other items of cost which are properly allowable under the treaty with Germany, the exact amount of which has not yet been determined.

The above claim may be reduced to the extent of the amounts which this Government shall receive, on account of this claim, by reason of any agreement with the Allied Powers, or any one of them, from payments by Germany.

"Please file due notice of aforesaid claim."

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[3] For correspondence concerning the creation of the Commission, see *Foreign Relations*, 1922, vol. II, pp. 240 ff.

[4] Mr. Robert C. Morris.

The presenting of this claim against Germany does not affect the basis of the claim of the United States against the Allied Governments which have received payments at the expense of our claim. The situation in this respect remains as was stated in Department's instruction to you dated February 19. Your attention is invited to the last clause in the letter to Morris where it is indicated that the claim may be reduced to the extent of the amounts which this Government will receive under arrangements which you are now making. The filing of this claim will not likely be made public. However, if it is, and the facts should receive attention abroad, you can state that this was simply a technical procedure for the purpose of preserving our rights and that it does not alter the situation.

HUGHES

462.00 R 294/174 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Extract]

PARIS, *April 10, 1923—noon.*
[Received 3:58 p.m.[5]]

185. W–25.

. . . . . .

Bemelmans asks that the basis of division be changed largely I judge because of home politics. He presents new clause as follows:

"However if in the course one of the first four years it should prove necessary to utilize all or part of the cash payments made by Germany to cover the costs of the European allied armies of occupation in the course of that year the American priority of 25 percent shall be calculated on the total of the cash payments made by Germany in the course of that year and not merely on the total remaining after the costs of the European allied armies of occupation shall have been covered. The amount to be paid to the American Government in the course of one of the first four years may not however exceed 50 percent of the total remaining from the cash payments made by Germany in the course of the said year after the costs of the European allied armies of occupation shall have been covered. If the American priority calculated in the aforesaid manner for a determined year could not be covered by the 50 percent of the remainder the balance of this priority will be chargeable to the cash payments made by Germany in the course of the following years until and including 1926 instead of being divided among the payments of the last 8 years. At the beginning of 1927 the total

[5] Telegram in four sections; this extract is the third section.

deficit which might be recorded will be divided among the payments of the last 8 years".

. . . . . .

[Wadsworth]
HERRICK

462.00 R 294/174 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *April 10, 1923—12 p.m.*

145. For Wadsworth. W–21. Your W–25.[6]

Heretofore Department had understood that it was contemplated to make payments to the United States a first charge on future payments credited to Germany with the specific exceptions enumerated in Article II subparagraphs *a*, *b*, and *c*, and Department had suggested that certain phraseology under consideration which had seemed to place in question the priority which was to be given the United States should be changed.

It appears from your statement, however, that it is now proposed that if costs of European Armies of Occupation in any determined year exceed the value of the deliveries in kind in that year received by the Powers respectively, the balance will be chargeable against the cash paid by Germany ahead of American Army costs. Further, that while American 25 percent is calculated on the total cash paid by Germany, it is proposed that there shall be a limitation of the actual payment to an amount equal to 50 percent of the balance of cash remaining after the current European army costs have been fully paid. For example, if the total cash paid by Germany was 80,000,000 gold marks, America's share would be 20,000,000. If, however, the cost of the European armies of occupation over and above value of deliveries in kind for the current year amounted to 50,000,000 gold marks, this would be deducted from the total of 80,000,000, leaving 30,000,000, and then the American share would be limited to one-half of this remainder, or to 15,000,000. We would then have the benefit of the calculation on the whole but be limited to payment of one-half of what remained after the Allies were paid in full. We fail to see where the priority comes in so far as army costs are concerned.

You say that there is no provision for carrying forward any deficit of the European army costs. But if there is a deficit in the European army costs, all this results from an apparent assumption that these costs are to be paid in any event so far as there are deliveries in kind to pay them and cash to pay them and that, no matter how the

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[6] *Supra.*

American share is calculated, we actually get nothing until these costs have been paid. Are we right as to this?

It is impossible for me to understand from the paragraphs you have formulated what the actual agreement is intended to be with respect to the points above mentioned. When I know exactly what is proposed in the light of these points I could readily advise you as to what is acceptable or not acceptable and what language is preferred. Meanwhile it would seem desirable that you withhold submission of suggestions or formulae.

HUGHES

462.00 R 294/176 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Extract—Paraphrase]

PARIS, *April 11, 1923—2 p.m.*
[Received 4:03 p.m.]

190. W–26. . . . The Department is correct in its assumption that current European army costs have priority in each year under the proposed paragraph 8, section 2.[7] From the beginning it has been the position of the Allies that before the United States priority should be applied their current army costs must be met. . . .

. . . . . .

[Wadsworth]
HERRICK

462.00 R 294/176 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *April 13, 1923—7 p.m.*

151. For Wadsworth. W–23.

. . . . . .

1. Proposal to subordinate American share of cash payments to payment of European current army costs is not acceptable.

. . . . . .

2. . . . It is not sufficient to say that the United States will get its annuities when military expenses decrease and Germany makes payments adequate to meet both European army costs and these annuities, for in that case there will be no question of priority, as there will be enough for both. The question is important now because of the military outlays which may remain the same for an indefinite time.

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[7] Art. 2, par. VIII, of agreement signed on May 25, p. 180.

Under the proposed arrangement we would take the chance of whatever military expenses the European Powers see fit to incur and get nothing until they are paid.

3. It is important that this Government, in agreeing to postpone its claim by distributing it over twelve years, without interest, in further agreeing that the Allies should retain their deliveries in kind and the British the proceeds of their Recovery Act and thus limiting the share of this Government to payments in cash, should be assured some definite and reasonable proportion of such cash payments and not consent to a prior lien which might for an indefinite time exhaust them.

This position is believed to be entirely fair. No one can question that this Government, under the Armistice Agreement and in view of the circumstances in which it retained its troops in Europe, was justly entitled to be paid for the upkeep of its army *pari passu* with the other armies of occupation. Putting all legal questions aside, our equity is clear and has been admitted by the Allies. But they disregarded it and took payments for their own army costs without giving us a share. In justice they should now give us a share of what they have already received. This Government, however, desirous of being not only fair but generous, indeed most indulgent, in view of the economic conditions abroad, is willing to postpone payment of its claim and to receive payment out of what will be paid by Germany hereafter. Here it was manifestly fair that we should have recourse to payments in kind no less than payments in cash, but in deference to the situation in the Allied countries this point also has been yielded, and we have been willing to be content with a share of the cash payments. Now, to assert that the Allies intend to take not only all the payments in kind, but whatever may be necessary of future cash payments to pay for their current army costs, whatever these may be, and to allow our claim for the past upkeep of our army, which should have been paid equally with theirs to remain undischarged, is as it seems to this Government going entirely beyond the bounds of reasonable and just treatment. If this position results in no agreement that will be regretted but it will none the less be adhered to.

It would be entirely equitable that as the Allies are to take all the deliveries in kind we should have a first charge on all the payments in cash for our annual installment, but we have been willing to go beyond this and take only 25 percent of the cash payments for the first four years. Certainly we should have that 25 percent without its being burdened by any other charge.

The point is that there should be no provision in the agreement subordinating the American annual installment to the payment of

the European army costs. This Government should have a definite percentage of the cash payments which it should receive up to the amount of its annuity regardless of what the European army costs may be. The amount of that percentage should be fixed equitably, but it should be fixed so that if Germany makes cash payments this Government will know exactly what it is to receive.

4. What has been said with respect to army costs applies also to Belgian priority. It may also be noted that this Government has never agreed to the giving of a Belgian priority over American army costs. Moreover the Belgian Government has refrained from complying with its clear agreement [8] that advances made by the United States for relief and reconstruction should constitute a first charge on reparation receipts from Germany, and has received more or less one billion gold marks in cash without allocating any portion thereof to the United States, although at the time the cash was being distributed this Government made successive inquiries [9] as to what steps were being taken by Belgium to comply with the terms of the agreement. This Government could not be expected to admit that Belgium's priority be extended so as to take precedence over any part of these proposed annuities to pay the American claim for army costs while Belgium disregards its undertakings as set forth in the obligations held by the United States Treasury.

The question of Belgian priority may be disposed of and all embarrassment avoided by the simple arrangement of a definite share to the United States of the cash payments, the rest of the cash payments not included in this share being divided among the Allies as they choose.

[Paraphrase.] 5. It may be a matter of negotiation to determine the amount of the fixed percentage which the United States is to have, but for the first four years I assume it would not be less than 25 percent. In the subsequent eight years it has been assumed that it should be 100 percent of the cash received or as much as was necessary in each year to meet the amount payable to the United States. In order to reach a definite percentage which the United States would receive free from any prior liens, some concession might possibly be made with respect to these years.

6. I am most desirous to reach an agreement as you will understand, but there are limits to the concessions we can make and in view of the justice of our claims the American public would not be impressed with the reasonableness of a settlement by which we agreed to permit the Allies not only to keep all they have received

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[8] Agreement between the Belgian Government and the Treasury Department in 1919, effected by exchanges of notes.

[9] Notes not printed; no replies were received from the Belgian Government.

previously at our expense, but also future deliveries in kind and the entire amount of their future military expenditures.

Far better would it be not to settle the claim at all than to settle it in a manner which promises nothing.

The Department has spoken of a fixed percentage. However we do not desire to exclude an arrangement in the way of a guaranty of installments if the Powers should desire to give it.

Leaving aside the equities of the case the United States cannot assent to a priority of European army costs from the point of view that the present armies were engaged as a collection agency for their benefit. Our Government's claim is for past army costs. These were incurred at a time when they could easily have been defrayed if it had not been for the reparation demands of the Allies. The present military operations of the Allies are not for our benefit. This Government has no desire to enter into any arrangement whereby it shall sponsor such operations or approve or disapprove of them. Still less does this Government desire any arrangement which might be interpreted as implying a commitment with regard to future military operations of the payment of costs to which our claim would be subordinated. [End paraphrase.]

7. If it should be found possible to reach a settlement on the basis outlined above, there remain, in addition to the modifications that would thereby be rendered necessary, three points for discussion:

(1) Adherence of other Powers. On this point you have my views.

(2) Wording for interest clause, on which you have yet to report.

(3) Question of reservation. I cannot accept suggestion for Paragraph 2, Section 6 proposing to give Allies right to abrogate in case United States adopts Reparation Recovery Act or receives payment in kind.[10] With this exception I am prepared to accept wording proposed. . . .

. . . . . .

HUGHES

462.00 R 294/187 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 19, 1923—11 a.m.*

[Received April 19—10:43 a.m.]

205. W–32. Yesterday afternoon the Allies met and I am informally advised that they have declined to alter their position

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[10] See telegram no. 156, W–15, Mar. 29, from the Ambassador in France, p. 149.

with respect to American priority on army cost reimbursement. I was notified that this morning at nine thirty there would be a full meeting but last night about nine o'clock Tannery telephoned that the meeting could not be held. Bemelmans with whom I have just talked has no information as to the reason for the postponement as yesterday the Allies were unanimous. As the Allies cannot meet again until Friday or Saturday I am going to London as planned and shall return to Paris for a meeting on the afternoon of Monday, April 23.

I suppose, from the insistence of American correspondents here, it would be necessary for the Department to issue a full statement regarding the conference particularly if conference does not give any explanation as to the reason for a rupture. It is felt by the Ambassador and others with whom I have talked the matter over that a break would not be well received at home after the very liberal terms which the United States has offered. The point on which there was disagreement would seem rather unreasonable and technical.

Herrick expressed this opinion confidentially to an intimate friend of Poincaré and in our talk last Friday I intimated the same to the Belgian representative. When in London I expect to see the Chancellor of the Exchequer and suppose you will not object to my informally going over the situation with him. If you think it advisable I suppose you will bring some pressure on the Allies through their diplomatic representatives in Washington.

It is my plan to be in London from Thursday to Saturday inclusive.

I have talked with Tannery since writing the above and learn that he conferred last night with Poincaré after the meeting of the Allies and that in view of that conversation he desires to confer again with the Allied representatives. Wadsworth.

HERRICK

462.00 R 294/187a : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *April 19, 1923—6 p.m.*

93. For Wadsworth due today in London from Paris. W–27.

The Department has received your W–32, April 19, 11 a.m., from Paris and does not object to your discussing the matter with the Chancellor of the Exchequer as you suggest.[11]

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[11] Mr. Wadsworth informed the Department on Apr. 24 by letter (not printed) that he had presented the American view to the Chancellor, who stated that he had no knowledge of the matter (file no. 462.00 R 294/202).

No occasion is seen to take matter up with Allied diplomatic representatives here who are not conversant with the course of your negotiations, who have not mentioned the matter and whose Governments must have been fully informed by their delegates of the justice and reasonableness of our position.

If the Allied delegates decline to alter their position at the meeting next Monday, it would seem to be desirable for you to explain to the American correspondents the justice and reasonableness of our position along the lines set forth in the 3rd and 4th paragraphs of my telegram of April 13, W–23, and if and when I hear definitely from you that our liberal terms are not acceptable to the Allies I will do the same here.

HUGHES

462.00 R 294/193 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Extract—Paraphrase]

PARIS, *April 24, 1923—noon.*
[Received April 24—9 : 35 a.m.]

211. W–34. There was a meeting yesterday and in my W–33 [12] the full draft of the agreement was sent. You will note in paragraph 3 of article 2 the proposed compromise intended to give priority over current army costs during the last eight years, if such priority is needed, to the annual installments of the United States.[13] I will consult Hess [14] as to whether the wording is properly applicable, and if you will consider this compromise, please instruct as to whether wording is satisfactory.

. . . . . .

Wadsworth
HERRICK

462.00 R 294/193 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 25, 1923—2 p.m.*

170. For Wadsworth. W–29.

From your W–34 of April 24 it cannot be ascertained whether the suggestions for possible compromise set forth in paragraph 5 of my

[12] Not printed.
[13] Par. 3 of art. 2 of the draft is identical with that of the agreement signed May 25, 1923, p. 180.
[14] Mr. R. A. Hess, unofficial American member of the finance service managing board, Reparation Commission.

W–23 of April 13, have been pressed and if so what was the disposition of the Allied representatives thereon. I am anxious to have your direct candid judgment as to whether Allied offer can be improved before instructing you further.

It appears from the last part of your W–28 that Allies might yield on paragraph 2 of the 6th article.[15] As proposed this paragraph would be most embarrassing to the United States. It may be important to make arrangements for the payment by Germany to the United States of the equivalent of the private property now held belonging to Germans which property is held under the treaty until suitable provision for payment of claims is made by Germany. The United States should be completely free to make such arrangements without affecting the annuities under the agreement proposed. We cannot accept an arrangement placing us in less advantageous position than we now enjoy and paragraph proposed including broadly all possible forms of payment by Germany could not for these reasons be allowed, as well as for reasons already indicated in preceding correspondence. It is most important that this Government reserve liberty of action to deal hereafter with this matter and the equity of this position should be recognised by the Allies. This statement is not for use before further instructions are sent you but in order that before the instructions are sent we may have the immediate advantage of your views.

HUGHES

462.00 R 294/196 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 26, 1923—3 p.m.*
[Received 4:03 p.m.[16]]

220. W–38. This is in reply to your W–29, April 25.

I did not press the proposition set forth in paragraph 5 of your telegram W–23, April 13, but I arranged that Logan should suggest

[15] Telegram W–28 not printed. Par. 2 of art. 6 of the original draft as transmitted in telegram W–33, Apr. 24, reads as follows:

"In case that in the course of the execution of the present agreement the Government of the United States should take measures to receive payments in cash direct from Germany or deliveries in kind from Germany without payment or with partial payments or should pass a reparation recovery act or any similar legislation and should not charge against the total of these payments in cash or the value of deliveries in kind not paid to Germany or the produce of this reparation recovery act or of any similar legislation during any particular year the total of the costs of the American Army of Occupation up to the amount of the annual installments due to America during that year, the European Governments reserve to themselves the right of abrogating the present agreement." (File no. 462.00 R 294/192.)

[16] Telegram in two sections.

as a compromise plan to the Belgian representative that the priority you desired be granted, but that for the last eight years the 100 percent priority be reduced to, say, 80 percent. This suggestion was made by Logan in a telephone conversation about other matters in order that at the conference of the Allies last Wednesday, at which they discussed their reply, this thought might be before them. The Allies have not mentioned this proposition and the foregoing is the only mention made of the possibility along this line.

As for your request for candid and direct judgment, after my reviewing the situation with Logan and with the Ambassador, I can say that my information (see my W–32, April 19) and the Ambassador's information, from word received from the Foreign Office, is that your request for priority over current army costs was about to be denied by the Allies. The pressure which the Ambassador brought was not as to any detail of the proposition, but came from the personal expression of his opinion that a break at this time would be politically serious and produce in the United States a bad impression. The Allies held formal and informal meetings between last Wednesday and Monday, and I understand they finally agreed on Monday afternoon to make counter proposition as now outlined in the third paragraph of article 2. It is our understanding here that the Allies were ready to break on the subject of priority, and that only by reason of political aspects in America were they persuaded to change their minds. I express the opinion, therefore, under these conditions, that the proposition as to priority should be accepted.

As to the second paragraph of article 6, I am not so clear and am ready to insist that in return for our giving up priority desired in the first four years, it be eliminated, but I would prefer the introduction of some innocuous clause to recognize that the Allies at least had a right to a hearing should a recovery act be adopted by the United States.

Would you authorize me to state that public opinion as to this particular agreement will doubtless have a bearing on the consideration of debt settlements between the Continental Allies and the United States when in the future they come before Congress, and perhaps even further that the public opinion or the opinion of Congress at least will in a way treat this as a part of the general financial settlement which must take place, and if United States public opinion impressed favorably by terms now made, the consideration of debt settlement terms will be beneficially affected.

In view of the attitude taken by the Allies as to the legality of our claim, the importance of getting a settlement and the problems

involved, I should on the whole be willing to accept personally the present status as to priority:

(*a*) With the elimination of paragraph 2, article 6;
(*b*) With paragraph 2, article 6, reworded so as simply to call for a conference but giving no right of abrogation to the Allies;
(*c*) Accept 80 percent priority for the last eight years in place of 100 percent if that made the Allies feel any better, in order to eliminate paragraph 2 of article 6.

Generally speaking, if Germany begins to pay, and army costs are reduced to normal figures, this percentage will not be a factor. If paragraph 2 of article 6 is to be impossible in any form, I would make straight out proposition to accept the terms as to priority and eliminate this paragraph with the possibility in view of a compromise and getting acceptance by reducing part of our 100 percent priority, but at the first meeting I would not intimate this.

Wadsworth
HERRICK

462.00 R 294/188½

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), April 27, 1923

The French Ambassador called by appointment.

Army costs.—He stated that he had been instructed by his Government to take up the question of army costs. He had been informed that through the efforts of the French Government a compromise proposal had been made [18] and that there were two points especially presented for consideration. The first was with regard to the American priority and this he understood was likely to be acceptable. He believed that Mr. Wadsworth had said that he would recommend it for acceptance. The other related to the provision that in case the American Government received direct payments from Germany or passed a Recovery Act or similar legislation and did not apply the monies obtained in this way to be discharged for army costs that the Allies should have the right to abrogate the agreement. The Ambassador said that he did not gather from his Government's instructions that the French Government was urging this, but they were very much concerned because of the attitude of the British and

[18] On Apr. 24 Mr. Wadsworth wrote the Department that the compromise proposal (on priority) mentioned in his telegram W–34 (*ante*, p. 165) was understood to have been brought about finally by the Italian representative (file no. 462.00 R 294/202).

Belgians who were very insistent that this should be incorporated in the agreement. The French Government feared that if this were not assented to by the American Government that it would be impossible to make an agreement.

The Secretary reviewed the entire course of the negotiations. He pointed out the clear equity of the United States in being entitled to be paid for its army costs on a parity with the other Governments. The Ambassador at once assented to this. The Secretary said that instead of being paid in this way the Allied Governments had taken pay for themselves for their army costs and the American Government had not been paid. The Ambassador suggested that they thought that very likely the American Government did not intend to press its claim. The Secretary said that this, he believed, was not accurate, because at the time of the large payments our position had been distinctly reserved. It had been expected that we would receive proper treatment and when for the first time we were advised that it was intended to ignore us the Secretary had at once sent an explicit demand.

The Secretary said that in view of the circumstances it would have been entirely just if the American Government had asked to be paid out of what the Allies had already received; that the American Government stood on the same footing as the Allies with respect to the payment of the army costs; but in deference to the economic situation abroad the American Government had been willing to accept the proposal that it should postpone its claim and accept installments running over a period of twelve years without interest. The Secretary said that this, he believed, was most generous treatment. Then on top of this the Allies had asked that in the future payments by Germany of deliveries in kind should be excepted. Further than this the British desired to retain the proceeds of the British Recovery Act. The Secretary said that he thought this was a demand that went beyond what was entirely appropriate and fair, but in view of the difficulty in payment in dollars, when the Allies received payments in kind, and the general situation, the American Government had yielded this point and it was thus reduced to sharing in the cash payments that might be made by Germany. Then, on top of this, the Allies had insisted that we should only have 25 per cent of these cash payments for the first four years. Again appreciating the situation the point had been allowed, but when there came in addition a proposal by the Allies that during this entire period of twelve years the American Government should be postponed even as to the cash payments by Germany to the payment by the Allies of their current army costs, and that of the balance of

the cash payments they should be limited to sharing, for four years, to 50 per cent, that is by dividing with Belgium to meet the Belgian priorities, he thought it was time to stop. The Secretary accordingly had told Mr. Wadsworth that much as he desired a settlement of this matter if the Allies were disposed to take this position he could inform them that it would be unacceptable and return home. The Secretary said he thought this treatment was most unfair and that he felt that he would rather have the claim of the Government than an agreement made under such conditions and that he would have no difficulty in showing to the American public that we had been treated in a most inconsiderate fashion. The Secretary then said that he understood that Mr. Wadsworth had made this position clear and then the compromise suggestion had been made that the postponement to the current army costs of the European Governments should only continue for four years and that the United States should have a clear priority in the cash payments by Germany for the remaining eight years. The Secretary said that he had this proposal under consideration. He felt, however, that to join with this the proposal that the American Government could not pass any legislation of the sort of the British Recovery Act or obtain any direct payments for [*from?*] Germany on account of its claims or the claims of its nationals without giving the Allies an option to rescind the agreement was indefensible. The Secretary pointed out that we had not advanced general reparation claims; that our claims were for actual injuries to property and that it was fair they should be discharged, but saw no reason why we should be put in a position where we could not obtain payment of these claims without losing our claims for our army costs. We were entitled to both. The Secretary pointed out the demand of the British to retain the proceeds of their Recovery Act. He also pointed out that the claims as filed with the Mixed Claims Commission would doubtless be found to be largely in excess of the amounts allowed, but whatever they were we were entitled to have them paid. The Ambassador spoke of the property in the hands of the Alien Property Custodian. The Secretary said that this was the property of private persons many of whom were no more responsible for the war than the Ambassador or the Secretary, that they were simply enemy nationals, many of them living in this country. The Secretary said that he did not wish to make a further statement as an official communication or for communication to the French Government, but he would say to the Ambassador that it was hoped that this Government would not be put to the necessity of confiscating the property of private persons,

although it might have the right to take it under its treaty with Germany. The Secretary said that under the proposal made by the Allies, if the American Government was able to make an arrangement with the German Government by which the German Government obtained a release of the private property of its nationals, imposed a tax and paid the equivalent to the American Government, because we would receive this direct payment from Germany we might have our army costs agreement rescinded, although no harm then would be done to the Allies. The Secretary said that he could not agree to such a limitation. He thought this Government had been generous enough and he had entered into the negotiations with the supposition that the Allies desired to be equitable in making an adjustment.

The Ambassador indicated that he felt the force of these points and again stated that he did not know that his Government was particularly urgent in the matter; that the British and Belgians seemed to be quite stiff about it.

The Secretary said that he was willing to go to this extent. Apparently, the Allies were fearful of some new situation arising out of dealings with Germany of the sort that the Secretary did not think probable. The Secretary said he would be perfectly willing to say that in the event described in the paragraph of the proposed agreement under consideration,[19] that is, in case of direct payments by Germany or the passage of legislation similar to the British Recovery Act, the United States would be willing to discuss the matter with the Allies in order that all equities could be considered in the light of the new situation. The point that the Secretary distinctly objected to was making an agreement and giving the right to the Allies to abrogate it in case an entirely reasonable arrangement was made by this Government to secure the payment of its claims and the claims of its nationals. The Secretary asked why this Government should not be able to have payment of its claims as well as payment of its army costs when the Allies had already obtained the payment of their army costs and were insisting upon protection for a considerable number of years for their current army costs.

The Ambassador said that he could not speak for his Government; that he was inclined to think that the Secretary's position would be entirely acceptable to the French Government. He would communicate with them at once.

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[19] Art. 6, par. 2.

462.00 R 294/196 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 27, 1923—6 p.m.*

172. For Wadsworth. W–30.

You are authorized to state that this Government will accept the Allied proposals on priority if you are satisfied they cannot be bettered.

It is not deemed equitable that the United States should yield further in view of the foregoing concession which clearly indicates willingness of this Government to take into consideration the difficulties faced by the other Governments concerned and to be most generous in making concessions with a view to reaching an agreement. You should, for reasons already stated, inform your colleagues that paragraph 2, article 6, is not acceptable to this Government, but if it appears that insistence on elimination of this paragraph would definitely disrupt negotiations you may state that this Government would accept the following substitute: The paragraph be followed up to and including the words "up to the amount of the annual installments due" and from there reading as follows:

"due to the United States during that year, the Government of the United States will discuss the effect of such measures or payments with the other parties for the purpose of reaching an agreement which will preserve in the light of such measures or payments the equities of the parties to this agreement."

. . . . . .

The French Ambassador under instructions from his Government has just seen me and stated that it was understood you would recommend the acceptance of the priority as now proposed but would merely submit without recommendation paragraph 2, article 6. He informed me that the Belgians and the British were very insistent on this latter provision. I explained the extent of our concessions at length and stated that we could not agree to restrict our liberty of action, indicating to him the proposal set forth in the 2d paragraph of his telegram as a final concession.

HUGHES

462.00 R 294/199 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 30, 1923—10 p.m.*

[Received May 1—9:25 a.m.]

227. W–41. I presented the new wording at once in view of your conversation with the French Ambassador and your intimation to

him that you would make the concession as outlined in your new wording of paragraph 2, article 6, as I felt sure that it would be understood by Tannery and probably others that there was such an available concession.

The paragraph was discussed for two hours, both the British and Belgian representatives stating that they had instructions to insist upon the right of abrogation. I took the position that the paragraph as written was the last word, the Allies suggesting that we give up our right of abrogation.

The question whether your wording would mean that the whole agreement was in abeyance unless in the discussion of equities an agreement was reached or drawn up by the Allies and to cover this point the following changes were made in paragraph 2 of article 6: Substitute for "reaching" "endeavor to reach" and add at the end of the paragraph "the inauguration of such discussion or failure to reach an accord shall neither suspend nor terminate the operation of the present agreement". Will you inform me whether this is satisfactory. I stated that the United States considered the agreement satisfactory except for this paragraph. The representatives of the Allies will consult their Government and from Bradbury's remarks the suggestion that the paragraph be eliminated may be brought back by them.

Bradbury seems to be leading the opposition [which?] is full of juridical points. I have informed the newspapers that the Allied representatives have referred to their respective Governments an important legal point bearing on the future operation of the agreement. Wadsworth.

HERRICK

462.00 R 294/199 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *May 1, 1923—5 p.m.*

178. For Wadsworth. W–34.

The Department has received your W–41, April 30, and commends your action. The modification of and addition to paragraph 2 of article 6 as reported in paragraph 3 of your W–41 are approved.

It would be entirely agreeable to the Department if the Allies should propose the elimination of paragraph 2, article 6.

Department approves your refusal to give up our right of abrogation, which right should be maintained by you even if the entire elimination of paragraph 2 is suggested by the Allies.

If and when agreement is signed, please notify me promptly.

HUGHES

462.00 R 294/201½

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), May 5, 1923

Army Costs.—The Ambassador said that he had endeavored to convey to his Government the Secretary's views and there was not any great difficulty, so far as the French Government was concerned, but that it [*there?*] seemed to him considerable difficulty with the British and Belgians. The Ambassador said that he had been instructed to ascertain if the Secretary could not suggest some formula which would prove a way out of the difficulty.

The Secretary said that he had no formula to suggest; that the United States Government had been asked to make one concession after another and had made them in the interest of reaching an agreement. But now it came to the point that the agreement was not to continue binding, or, at least, the Allies were to have the option to abrogate it, if the United States obtained payments directly from Germany which were not applicable to the army costs. The Secretary said that this meant the Allies undertook to say that if the United States desired to retain this army costs agreement it must do so at the price of not being able to collect its claims from Germany. This would mean that if any effort was made by the United States to have its claims paid by Germany it would be necessary to add to these claims the amount of the army costs, for the Allies apparently were insisting that the United States should not have the benefit of the agreement with the Allies and the payments for American claims at the same time. The Secretary reiterated his opinion that this was not a just position.

The Secretary pointed out that the United States was not claiming several classes of reparations and was merely seeking to secure the payment of the just claims of its nationals and for damages actually sustained. The Secretary noted that with respect to debts the Allies had the benefit of the clearing house system. This system could not be utilized in the United States, but the nationals of the Allies were receiving payment of their debts in addition to the reparation and army cost payments. Certainly the United States should be able to obtain from Germany, in accordance with its treaty, the payment of the debts due to its nationals. Then, with respect to the damages sustained by submarine attacks, et cetera, there was no reason why the claims of the United States and its nationals should be foregone.

Why, asked the Secretary, should the Allies seek to make this a condition for the payment of the army costs when the Allies had already received their army costs substantially and it was a clear equity that the United States should have been paid at the same time and upon the same footing?

The Ambassador repeated that his Government did not find the situation was very difficult, but that the others seemed to and hoped that some formula could be found. It was said that the United States held in the hands of the Alien Property Custodian a large amount of property which was applicable to the claims of which the Secretary had spoken.

The Secretary replied that this was true, but that the property in question was the property of private persons and that while the United States had the right under its treaty to apply it to the payment of claims, yet it was held for this purpose in the event that Germany made no suitable provision for such payment. The Secretary pointed out that perhaps in most cases the property was private property of those who had nothing to do with the instigation or conduct of the war, but simply were private citizens who had investments in this country and happened to be enemy nationals. The Secretary said that it might well be that we should seek an opportunity to have Germany make a payment which would enable us to avoid the confiscation of this private property and there was no reason why we should not do so, but under the proposed provision, if the United States undertook to get merely the equivalent of the property that it held in hand the Allies would have the liberty to abrogate the army costs agreement. The Secretary saw no justification for this. The Secretary also pointed out that so far as a Reparation Recovery Act was concerned, it was extremely unlikely that such an act would be passed by Congress, but there was no reason why the Congress should not have the liberty of passing it if it saw fit without the risk of losing the army costs agreement.

The main question from a practical standpoint was, however, whether the United States would have the liberty to collect from Germany the amount of its claims without being compelled to lose the benefit of the army costs agreement which was intended to pay the United States what it should have received long ago.

The Ambassador said that he understood the Secretary to mean that if the United States only got the equivalent of the property in the hands of the Alien Property Custodian, it would still have to give up the army costs agreement. The Secretary pointed out that it might be possible to make an arrangement by which the

private property could be released and a capital tax might be imposed by Germany with the result that there would be a fair arrangement all around, and yet, although the United States would be in no better position and might merely receive from Germany the equivalent of the property in hand, still the Allies, under the proposal, would be privileged to abrogate the army costs agreement.

The Ambassador said he would communicate again with his Government and see if some formula could be devised on the other side which would meet the situation.

Reparations.—The Ambassador referred to the German offer and said it was very vague and indefinite; that the German offers were continuously being reduced in amount; and that his Government would undoubtedly reject it at once. The Secretary pointed out that a settlement could hardly be reached by fulminations in the public square, and that the best thing about the German note was that it indicated a desire to begin negotiations. The Secretary hoped that there would be some opportunity found by which the representatives of the Governments could get together and thresh the matter out and reach a fair solution. The Ambassador agreed.

. . . . . .

462.00 R 294/217 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

BRUSSELS, *May 22, 1923—3 p.m.*
[Received 6:05 p.m.]

49. Note today from Foreign Office states that after having examined the draft of the agreement prepared by the experts of the Belgian, French, British and Italian Governments, to settle the expense of the American army of occupation, the Belgian Government has decided to consent to the suppression of paragraph 2 of article 6 of that draft. The Belgian Government declares however that if it consents to sign the draft thus modified it is because it interprets article 248 of the Treaty of Versailles, the scope of which it has no intention of limiting in signing the said agreement, as permitting the Reparations Commission, should the case arise, to protect in their entirety the rights of the Belgian Government.

Repeated to Paris and London.

THAW

462.00 R 294/216 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *May 22, 1923—4 p.m.*
[Received May 22—2:17 p.m.]

253. W–49. Tannery has just informed me that he hopes a meeting will be held tomorrow (Wednesday) to sign the agreement. He states that in any event the signatures by France and Belgium, and possibly by others, must be subject to the approval of the several Parliaments in accordance with constitutional requirements and that the matter can be dealt with in no other way. This development is entirely new. I presume that if reservation required by constitutions I should sign with that understanding. No definite word has been received from Bradbury by Tannery as to the extent of his insistence that agreement be submitted to Germany and I have communicated your position on this point to Tannery. If possible please reply today. Wadsworth.

HERRICK

462.00 R 294/216 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *May 22, 1923—5 p.m.*

203. For Wadsworth. W–41. This is in reply to your W–49, May 22, 4 p.m.

I am much surprised at the belated suggestion regarding parliamentary approval. According to my understanding the Finance Ministers Agreement of March, 1922,[20] was not submitted to the respective Parliaments; but if you find it necessary there is no objection to your signing agreement with the understanding that it is subject to the constitutional requirements of the signatories.

You are requested to report immediately whether the Department is correct in understanding that the Allies have decided to omit the second paragraph of article 6. You are authorized to sign on this assumption.

HUGHES

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[20] For text of agreement, see Great Britain, Cmd. 1616, Reparation (1922).

462.00 R 294/220: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *May 23, 1923—1 p.m.*
[Received 3:10 p.m.]

255. W–50. This is in reply to your W–41, May 22, 5 p.m.

A meeting has been called for 3:30 tomorrow (Thursday) afternoon for signing the agreement. According to my information the following provision has been added: "The present agreement will come into force after ratification; ratifications will be exchanged at Paris as soon as possible." It is my understanding that the meaning of these words is intended to be such ratification as under the constitutional provisions of each signatory power may be necessary. According to Tannery this means parliamentary approval by Belgium and France. The view that ratification by British Parliament is not necessary is informally expressed by Bradbury. I do not know what the situation is regarding Italy but Tannery is inclined to believe that ratification by Italy will be necessary. Please cable instructions. The agreement of March 11, 1922, Tannery claims was subject to the same form of ratification (see page 14 of the notes of the March 10th meeting [21]).

According to Bradbury, identical note was to be handed simultaneously to Embassies at Brussels, Rome, London, Paris. No note has yet been received here but assume it will be identical with the Belgian note referred to in Brussels telegram no. 49, May 22, 3 p.m.

With reference to your W–41, your understanding is correct as to the omission of the second paragraph of article 6.

I understand from later information that signature will not be possible before Monday. Wadsworth.

HERRICK

462.00 R 294/219: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *May 23, 1923—5 p.m.*
[Received May 23—2:30 p.m.]

256. W–51. Apparently the delay mentioned in the last paragraph of my W–50, May 23, 1 p.m., is due to the Italians who, according to my information, desire to present note to the American Ambassador here as well as to the American Ambassador at Rome.

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[21] Not printed.

Subject to any further instructions I shall try to push the matter to a conclusion on Saturday rather than Monday.

I have had a friendly talk with Bradbury since my W–50; neither by him nor by Tannery has there been further mention of submitting agreement to the German Government. Wadsworth.

HERRICK

462.00 R 294/221 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

BRUSSELS, *May 24, 1923—11 a.m.*
[Received 3 p.m.]

Referring to the Embassy's number 49, May 22, 3 p.m.

The Foreign Office has today recalled the note upon which my telegram was based because of a "serious error" made in the preparation of the note at the Foreign Office, and has substituted the following:

"I beg to inform you that, after having examined the draft of the agreement prepared by the experts of the Belgian, French, British and Italian Governments, to settle the expenses of the American army of occupation, the Belgian Government has decided to consent to the suppression of paragraph 2 of article 6 of that draft. The Belgian Government declares, however, that, if it consents to sign the draft thus modified, it is because it interprets article 248 of the Treaty of Versailles, the scope of which it has no intention of limiting in signing the said agreement, as permitting in favor of the Allied and Associated Powers that ratified the Treaty of Versailles, protection of the priority of reparations and other charges proceeding from this treaty on the engagements and obligations of Germany."

THAW

462.00 R 294/225 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *May 25, 1923—3 p.m.*
[Received May 25—1:16 p.m.]

259. My 256 [*255*], May 23, 1 p. m., W–50, ante-penultimate paragraph, Italian member Reparation Commission has handed me copy of note which his Government has addressed to Child in Rome, and which is identical with Belgian note.

I have just received French note from Foreign Office. After preamble similar to that of Belgian and Italian notes second paragraph reads as follows:

"The Government of the Republic, however, desires to declare that, if it has consented to sign the draft agreement thus modified, it is because it interprets article 248 of the Treaty of Versailles, the

scope of which it has no intention of limiting in signing said agreement, as permitting 'the protection, in favor of the Allied and Associated Powers which have ratified the Treaty of Versailles, of the priority reparations and other charges resulting from the said treaty over other engagements and obligations of Germany.'"

Thus the French note in the part subquoted above differs from the Belgian and Italian notes.

HERRICK

462.00 R 294/238, 256

The Assistant Secretary of the Treasury (Wadsworth) to the Secretary of State

[PARIS,] *May 26, 1923.*

[Received June 11.]

SIR: In accordance with your instructions of February 19, 1923, in connection with the negotiations as to the payment of the cost of the American Army of Occupation, I beg to state that an agreement was signed yesterday covering this matter. This agreement is, I trust, in accordance with your original instructions supplemented by various cables which we have exchanged since that time.

One copy of the agreement was signed both in French and English. This copy is to be filed with the records of the Government of France. I understand that a certified copy of both the French and English agreement will be, in due course, sent to you through the American Embassy.

I enclose herewith a copy of the French and English drafts with small pencil changes made at the last meeting of the Conference when the official copy was being verified.[22] The changes on the French text were made by Mr. Sheldon Whitehouse, Counsellor of the American Embassy. Both of these drafts should absolutely agree with the original draft as signed.

Respectfully,

ELIOT WADSWORTH

[Enclosure]

Agreement between the United States of America and Great Britain, France, Italy, and Belgium, Signed at Paris, May 25, 1923

THE PRESENT AGREEMENT is concluded between the Government of the United States of America, of the one part,

And the Governments of Great Britain, France, Italy, and Belgium of the other part.

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[22] A copy of the authenticated text, transmitted by the Embassy in France on July 20, 1923, has been substituted for the copy submitted by Mr. Wadsworth.

The Governments of Great Britain, France, Italy and Belgium undertake to use every effort to secure the adherence to this Agreement of the other Allied Powers who have a right to participate in the payments affected by the said Agreement.

ARTICLE 1

For the purpose of the present Agreement the net amount due to the Government of the United States for the costs of its Army of Occupation will be reckoned as follows:

The total net costs as they are certified by the United States Government and as they will figure in the accounts of the Reparation Commission after deducting the following sums, if they have not already been deducted:

(*a*) Any amount already collected by the United States Government in the form of the requisition of paper marks;

(*b*) The value of the Armistice material and material abandoned by Germany not possessing a military character.

The value in gold of the paper marks, of the Armistice material and of the abandoned material not possessing a military character, shall be fixed by the Reparation Commission and the Reparation Commission will agree with the Government of the United States as to the amount thereof to be deducted from the total net costs of the American Army of Occupation.

ARTICLE 2

I. The net amount due to the United States will be paid in twelve equal yearly instalments, the first instalment to be paid on or before the 31st December 1923.

II. No interest will be charged; however, if the Allied Governments should decide at any time to charge interest from a fixed date for the unpaid costs of their Armies of Occupation, the same rate of interest commencing from the same date shall be allowed the Government of the United States for the unpaid balance of its claim.

III. Each of the yearly instalments referred to in paragraph I of the present Article constitutes up to the 31st December 1926 a first charge on the payments of all kinds to be credited to Germany's "Reparation" account * excluding those specially excepted by para-

* The "Reparation" account of Germany includes all payments in cash or kind which are devoted to making good the damages for which the Allies have claimed compensation from Germany in accordance with the terms of the Treaty of Versailles. Accordingly, there are excluded from the "Reparation" account such items as the costs of the Reparation Commission, the payments made through the Clearing Offices, and the cost of the Armies of Occupation. [Footnote on the original.]

graph IV below, and, from the 1st January 1927, if the payments of all kinds to be placed to the credit of the Reparation account are insufficient, a first charge in addition on all the payments to be placed to the credit of Armies of Occupation account, exclusive of paper marks requisitioned to meet the needs of the Armies of Occupation for local currency during the year in the course of which the said yearly instalment should be paid to the Government of the United States. The charges established by the present paragraph are applicable whether these payments are made by Germany or for her account or by or for the account of another country from whom a similar payment may be exacted, to any organization which has been or may be designated to receive such payments and including the payments made directly to the interested Governments.

IV. For the purpose of the execution of the present Agreement, the payments by the German Government subjected to the charges referred to in paragraph III above shall not include:

a) Deliveries in kind intended to be used in the interior of the receiving countries, their colonies and their dominions made by virtue of the various annexes to Part VIII of the Treaty of Versailles or of any other procedure approved to date by the Reparation Commission * to the Allied countries having a credit on account of reparations;

b) The proceeds of the British Reparation Recovery Act or of any other similar legislation enacted or to be enacted by the other Allied Governments in pursuance of paragraph 2 of the decision of the Allied Governments of 3rd March 1921; [25]

c) The value of transfers and cessions of property, rights and interests made in execution of the Treaty of Versailles, unless such transfers (e. g., under Articles 254 and 256 of the Treaty of Versailles) result in a payment to the credit of Germany's reparation account made by Powers not having a right to reparation, or unless such cessions of property, rights and interests (e. g., under Article 260 of the Treaty of Versailles) are liquidated or sold for cash by the Reparation Commission for the credit of Germany.

V. If, in the course of one calendar year between 1st January 1923 and 31st December 1926, the amount of the sum due to the Government of the United States exceeds 25% of the total of the payments made by or for the account of Germany for the credit of her reparation account as defined above (excluding the sums carried to the

* The other procedures approved to date by the Reparation Commission are those of:
a) The Wiesbaden Agreements signed on the 6th and 7th October 1921;
b) The Bemelmans-Cuntze Agreement of 2nd June, 1922;
c) The Gillet-Ruppel Agreement of 2nd June, 1922.
[Footnote on the original.]

[25] Not printed.

account of the Armies of Occupation), the amount of the instalment payable to the Government of the United States shall be reduced to a sum equivalent to 25% of such payments, and 1/8 of the sum deducted shall be added to each of the instalments to be paid in the course of the years 1927 to 1934 inclusive.

VI. Nevertheless, for the purpose of the present Agreement, the European Allied Governments, creditors on account of their Armies of Occupation, undertake to apply during each of the years 1923 to 1926 inclusive by priority to the payment of the current expenses for their respective Armies of Occupation, in so far as these have not been met by the requisition of paper marks, the value of the deliveries in kind referred to in paragraph (*a*) above, the proceeds of any Reparation Recovery Act for the time being in force and referred to in paragraph (*b*) above, and the value of the transfers and cessions of property rights and interests referred to in paragraph (*c*) above, in such a way as to be able to place as far as possible the value of the other payments which Germany will make to her credit on account of reparations.

VII. If, after 1926, the payments to the Government of the United States in the course of any particular year are insufficient to satisfy the amount due to that Government in the course of that year, the arrears shall be carried over to a special account bearing simple interest at 4½%.

This account of arrears shall be liquidated as soon as the payments received from Germany in the course of any year admit.

These arrears shall have the same priority as that given under paragraph III of Article 2 of the present Agreement to the equal annual instalments.

VIII. However, if in the course of one of the first four years it should prove necessary to utilise all or a part of the payments in cash made by Germany to cover the costs of the Armies of Occupation of the European Allies in the course of that year, the American priority of 25% shall be calculated on the total of the payments in cash made by Germany in the course of that year on reparation account and on the account of the Armies of Occupation of the European Allied Powers, exclusive of paper marks requisitioned to meet the needs of the Armies of Occupation for local currency. The sum to be remitted to the Government of the United States in the course of any one of the first four years shall not, however, exceed 50% of the total balance of the payments in cash made by Germany in the course of the year in question, which remains for credit to reparation account. If the American priority calculated as above for any particular year cannot be met by the 50% payments calculated as above, the balance of this priority shall be charge-

able against the payments in cash made by Germany in the course of the following years up to and including 1926 instead of being spread over the payments of the last eight years. At the beginning of 1927 the total deficit which has accrued shall be spread over the payments of the last eight years.

IX. If at the end of the year 1927 or of any year following, the arrears have reached such an amount as might, in the opinion of the Government of the United States, endanger the complete execution of the payments within the period of twelve years, the Allied Governments will, upon the request of the Government of the United States and in agreement with it, use their best endeavours to make such modifications of the present Agreement as may seem necessary to ensure the complete execution of the payments within the prescribed period of twelve years.

X. The Allied Governments, however, reserve all their rights in respect of the payments in kind and in cash which might be collected in occupied territory through the intervention of any Allied authority.

Article 3

The present Agreement has been drawn up in contemplation of annual payments to be made by Germany and with the recognition of the impossibility of foreseeing and determining at this moment the distribution of any extraordinary payment which may be made by Germany in any particular year.

If, however, a loan is floated or an anticipatory payment effected by Germany in any manner, the Allied Governments will put themselves in communication with the Government of the United States for the purpose of discussing the participation of the United States in such extraordinary payments.

If, as a consequence of a loan floated either in America or elsewhere, or of any anticipatory payment made by Germany by any means whatever, a moratorium were granted to Germany, the Allied Governments will put themselves into communication with the Government of the United States for the purpose of reaching an agreement which would not cause any prejudice to the Government of United States.

No discount shall be allowed for any anticipatory payments.

Article 4

The Allied Governments which have approved the agreement of 11th March 1922, declare that the charge upon the payments in cash to be received from Germany and set up by the last part of Article 8 of the Interallied Agreement of March 11th 1922, in favour of the unpaid balance of the costs of the British and French Armies

of Occupation up to 1st May 1921, shall only apply to the balance, if such there be, of the German payments after payment of the sums due to the United States in execution of the present Agreement. The fact that the Government of the United States has taken note of this declaration cannot, however, be interpreted as an expression of opinion of the Government of the United States with regard to the Agreement of 11th March 1922.

ARTICLE 5

If the Government of the United States should come to an agreement with the Reparation Commission to receive, in accordance with the provisions of the Treaty of Versailles or any supplementary Agreement, German dye-stuffs, the value of these dye-stuffs determined by agreement between the Government of the United States and the Reparation Commission, shall be deducted from the annual payment due to the Government of the United States under the present Agreement in the course of the calendar year in which these dye-stuffs shall have been received.

If, in the course of any calendar year, the value of the dye-stuffs thus supplied to the United States exceeds the annual sum due to the Government of the United States, the excess shall be utilised:

(*a*) During the years from 1923 to 1926 to supplement, as far as necessary, the payments already made, so as to bring them, for each year, up to 1/12 of the American claim;

(*b*) During 1927 and the years following, to liquidate the account of arrears.

If, when these operations have been completed, there still remains a balance, this shall be regarded as an anticipatory payment of the annual instalments fixed in accordance with Article 2 of the present Agreement.

No discount shall be allowed on these anticipatory payments.

ARTICLE 6

If at any time the arrears due to the United States reach a total such that the Government of the United States considers that there is a risk of its not being paid within the prescribed period of 12 years, the Government of the United States shall have the right to abrogate the present Agreement, if within a period of three months from the date of a notification to that effect, the Agreement has not been modified to its satisfaction.

In negotiating the present Agreement, the respective Governments, with a view to arriving at an arrangement for the payment of the costs of the American Army of Occupation, have voluntarily avoided raising any question of right or interpretation.

The respective Governments desire, nevertheless, to state that, in case the present Agreement should be abrogated for any reason whatsoever, each of them reserves the right to maintain all its rights whatsoever may be their extent, such as each deems them to exist at this date.

THE PRESENT AGREEMENT shall take effect after such ratifications as may be required in accordance with the constitutional methods of the High Contracting Parties.[26]

Ratifications shall be exchanged at Paris as soon as possible.

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Agreement.

DONE at Paris, the twenty-fifth day of May one thousand nine hundred and twenty-three, in a single copy which will remain deposited in the archives of the French Republic, and of which authenticated copies will be transmitted to each of the Signatory Powers.

For the United States of America:	ELIOT WADSWORTH
For Great Britain:	JOHN BRADBURY
For France:	JEAN TANNERY
For Italy:	M. D'AMELIO
For Belgium:	A. BEMELMANS

462.00 R 294/236 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *June 5, 1923—4 p.m.*
[Received June 6—10 a.m.]

207. Your 131, June 2, 5 p.m.[27] The Embassy on May 26 received a note which was sent by pouch May 29th, which stated as follows:

"His Majesty's Government have decided to consent to the suppression of paragraph 2 of article 6 of that draft agreement.

"His Majesty's Government are however anxious to place on record that they have only consented to sign the draft agreement thus modified because they interpret article 248 of the Treaty of Versailles, the scope of which they in nowise intend to restrict by signing the said agreement, as a safeguard in favor of the Allied and Associated Powers who have ratified the Treaty of Versailles, of the priority reparations and other charges arising out of the said treaty over the other engagements and obligations of Germany."

WHEELER

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[26] On Aug. 24 the Department informed the Chargé in France as follows: "Inasmuch as the agreement is not a treaty but rather an executive agreement . . . it is deemed by the Government that the formal approval by the President will suffice. . . . the President's approval is sent you . . ." (File no. 462.00 R 294/266.)

[27] Not printed.

462.00 R 294/242 : Telegram

The Secretary of State to the Ambassador in France (Herrick)[28]

WASHINGTON, *July 14, 1923—2 p.m.*

284. Your despatch 3178 June 4.[29]

You may inform the French Foreign Office as follows:

"I did not fail to transmit to my Government the note which Your Excellency addressed to me under date of May 24, 1923 concerning the assent of Your Excellency's Government to the suppression of paragraph 2 which it had been proposed to include in Article 6 of the agreement for the reimbursement of the cost of the American army of occupation in the Rhineland.

"My Government has noted the statement contained in Your Excellency's note that (here quote second paragraph of the Foreign Office's note).

"In reply I am directed and have the honor to inform Your Excellency that my Government does not understand by this statement that it is intended to deny to the United States the enjoyment of the rights and advantages to which the United States is justly and equally entitled as a participant in the common victory, including the rights and advantages stipulated for its benefit in the Treaty of Versailles and accorded to the United States by the treaty signed on August 25, 1921 between the United States and Germany. It may be observed that this would in no way derogate from any of the benefits which the other Allied and Associated Powers are also justly and equally entitled to enjoy. My Government is confident that it is no more the purpose of the other Allied and Associated Powers to attempt to discriminate against it with respect to these privileges and benefits, which would not have been secured except through the success of the common effort, than it is the purpose of the Government of the United States to seek to exercise its rights under the treaties above mentioned in any spirit other than that of equity towards its associates in the war."

HUGHES

462.00 R 294/279 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Extract—Paraphrase]

PARIS, *October 16, 1923—7 p.m.*

[Received October 17—5:11 a.m.[30]]

409. I was informed this morning by a member of the British Embassy that he had received new instructions and that it was his present understanding that the whole matter had been complicated

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[28] The same, *mutatis mutandis*, to the missions in Belgium, Great Britain, and Italy.

[29] Not printed; see the Ambassador's telegram no. 259, May 25, p. 179.

[30] Telegram in two sections.

anew by our having presented a claim for a share in the Bulgarian reparation payment made recently.[31] I said that I was unaware that any such action had been taken, but if it had I did not see that the situation had been made more difficult. My informant replied that the whole question of the interpretation of the agreement was necessarily involved in such a claim on our part; it was his contention that a decision of the Conference of Ambassadors notifying the agreement to the Reparation Commission was a decision approving the agreement; he is not willing to concur in such a decision until the question of interpretation has been settled so he is able to know precisely the scope of the agreement that he is to approve.

. . . . . .

I inquired what for him would constitute a satisfactory settlement of the matter at issue, and he made it clear that his criterion was Sir John Bradbury's satisfaction.

He was under the impression that our position on the Bulgarian payment had been taken by Logan either at meetings of the Reparation Commission or of the commission's subcommittees. He is evidently in error, for Logan is still without instructions.

Logan advises me that it is possible Bulgarian payments came to the commission's attention through draft reports of the Finance Service, but that he had neither discussed nor referred to the position of the Government of the United States on interpretation of the agreement with anyone. . . .

. . . . . .

WHITEHOUSE

462.00 R 294/279 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *October 19, 1923—6 p.m.*

289. The American Chargé in France has telegraphed the Department that he has been informed by a member of the British Embassy at Paris that he had received new instructions, but that now a complication had arisen by reason of claim put forward by the United States for a share in Bulgarian reparation payments. It was the opinion of the Chargé's informant that any such claim involved interpretation of the agreement of May 25, and he intimated that

[31] The Bulgarian Government made its first semiannual reparation payment on Oct. 1, 1923.

his instructions were that this matter had to be settled satisfactorily before he would be able to concur in notifying the agreement to the Reparation Commission by the Conference of Ambassadors. He indicated as his view that such notification would in effect be approval, and that before according approval the scope of the agreement should be settled. He indicated confidentially that on this point the British member of the Reparation Commission had to be satisfied.

You will please take the first opportunity to give the substance of the foregoing to Lord Curzon and to say to him that the Government of the United States has not presented a claim to share in the Bulgarian payments although, now that the question has arisen, this Government must of course fully reserve its position in the event that a share should not be accorded it. You will state that this Government is at this time merely requesting that the agreement be notified to the commission as soon as this can be done, and indicate that under the circumstances it would clearly be unreasonable if notification were to be held up. The Government of the United States is loath to believe that the Governments by whom the United States was invited to confer on the reimbursement of its admittedly just claim for army costs are now disposed, by raising technical points, to stop the proposed notification. The Government of the United States hopes that the position which has been reported to it does not represent correctly the views of the British Government, and that the British representative at Paris will be appropriately instructed to give his support to prompt notification of the agreement to the commission and the opening of a separate account.

Repeat to Embassy, Paris, as Department's no. 387, and keep it and Department advised.

HUGHES

462.00 R 294/285 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *November 8, 1923—5 p.m.*
[Received November 8—4:45 p.m.]

451. The Conference of Ambassadors this morning without any discussion decided to communicate to the Reparations Commission the text of the agreement relative to the costs of the American army of occupation. The formula adopted was the one proposed by this Embassy.

HERRICK

462.00 R 294/291a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Extract—Paraphrase]

WASHINGTON, *December 13, 1923—3 p.m.*

461. L–23. The Department has given careful consideration to the question of possible American participation in the reparation payments made by Bulgaria and views the situation as follows:

(1) An examination of the notes of the conference on army costs indicates that the intent of the parties to the agreement was that, subject to its terms, the United States should share in the cash payments made by Germany or in those made for her account by such neutrals as Denmark or Luxemburg or by Allies receiving excess deliveries in kind, and that no reference was made directly to the question of participation by the United States in Bulgarian reparations as such; Wadsworth confirms this view.

(2) The wording of paragraph 3 of article 2 of the army costs agreement appears to the Department to be conclusive that the United States is entitled to share in payments made by Germany or for her account or by or for the account of another country from whom similar payment may be exacted, should the Bulgarian payments in fact be credited to Germany; but it is not certain that the Government of the United States could contend that as a matter of legal right such payments must necessarily be credited to Germany's reparation account.

(3) The Department has noted the statement in your letter of October 5[32] that the liability of Germany's allies is included in Germany's liability of 132 billion gold marks. The Department is not aware of treaty provisions or of agreements which expressly cover this point and it would be glad to have you express your views, particularly with Bulgaria in mind. You will note that the Trianon Treaty and the Treaty of St. Germain are, in their reparation provisions, quite distinct from the provisions of the Treaty of Neuilly; for example, according to article 179 of the Treaty of St. Germain, reference is made to the effect of reparation payments by Germany whereas under article 121 of the Treaty of Neuilly provision is made for direct payment by Bulgaria of a definite sum for the benefit of the interested Powers.

(4) Please telegraph comment on the foregoing.

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HUGHES

[32] Not printed.

462.00 R 294/293 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Extract—Paraphrase]

PARIS, *December 19, 1923—11 a.m.*

[Received 3:50 p.m.[33]]

519. L–57. Your L–23, December 13. Department's instructions have been noted in regard to claim on Bulgarian reparation payments for army costs only if these payments are credited to Germany's reparation account. I concur wholly in Department's view that the United States can not demand that these payments be so credited.

With reference to paragraph (3) the Department's attention is directed to article 231 of the Treaty of Versailles, by which Germany is made responsible for all the damage caused either by her or by her allies and to the schedule of payments of May 3, 1921, which fixes the global sum of all damage at 132 billion gold marks with the express proviso that Germany should receive credit on this grand total with any sums received from other enemy or ex-enemy powers the credit for which the Commission may decide should be given to Germany. As Bulgaria was an ally, Germany is liable under article 231 for damage done by Bulgaria, and this damage is deemed to be included in the total sum of 132 billions; the commission may, in consequence, credit Bulgarian payments to Germany if it choose to do so. Bulgaria receives credit anyway on her separate account. Your reference to article 121 of the Treaty of Neuilly has been noted, but I suggest that the controlling provisions for present purposes are articles 231 and 233 of the Treaty of Versailles and schedule of payments of May 3, 1921.

It is entirely feasible both practically and legally to make Germany liable for damages done by Bulgaria without making Bulgaria liable for damages done by Germany, and likewise it is entirely feasible to credit Germany as well as Bulgaria with the amount of Bulgarian payments. No injury could be done to Bulgaria thereby.

. . . . . .

Logan
HERRICK

[33] Telegram in two sections.

462.00 R 294/293 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *January 10, 1924—5 p.m.*

11. L–37. Your L–57, December 19, 1923.

Should the Allies conclude a separate agreement with Bulgaria to provide for the liquidation of the costs of the armies of occupation and commissions of control from sources besides the payments under the reparation protocol and should questions arise regarding the distribution of the funds placed in special account created under paragraph 2 of the commission's decision of September 5 (No. 2629)[34] as amended, you may at your own discretion appropriately support the view that reparation payments by Bulgaria be credited by the Reparation Commission to Germany's reparation account by authority of article 1, schedule of payments.

HUGHES

WITHDRAWAL OF THE AMERICAN ARMY OF OCCUPATION[35] AND OF THE UNOFFICIAL OBSERVER ON THE INTERALLIED RHINELAND HIGH COMMISSION

862T.01/526a : Circular telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *January 10, 1923—1 p.m.*

For your information. The Secretary has today announced that, in the judgment of the President, the time has come to carry out the complete withdrawal of American troops on the Rhine. Appropriate instructions are being sent to General Allen. The British, French, German, Belgian and Italian Ambassadors have been so advised.

Repeat to London, Berlin, Brussels, Rome, Lausanne.

HUGHES

862T.01/561½

Memorandum by the Secretary of State of a Conversation with the German Ambassador (Wiedfeldt), January 23, 1923

[Extract]

The German Ambassador said that in view of the departure of the American forces from Germany today his Government had

[34] Not printed.

[35] For previous correspondence concerning American Army of Occupation, see *Foreign Relations*, 1922, vol. II, pp. 211 ff.

instructed him to express to the Secretary the sincere thanks of the German Government for the correct conduct of the American troops during the time of occupation.

862T.01/562 : Telegram

The Unofficial Observer on the Interallied Rhineland High Commission (Allen) to the Secretary of State

COBLENZ, *January 27, 1923—7 p.m.*
[Received January 29—9:58 a.m.]

American zone turned over at noon to French authorities. Five minutes later all train service tributary to Coblenz ceased. French now hold Coblenz station with troops. Customs barrier around Ruhr basin backed by infantry, tanks and artillery, will be completed by [garbled group]. This should stop or control all coal going into unoccupied Germany. Kilmarnock [36] does not yet know whether the British troops will be withdrawn. If withdrawn, and British representative at commission also withdrawn, it is considered that legal existence of commission would end. That would bring a purely military occupation to which present measures are tending. Our personal relations with all French military and civil officials continue excellent. Exceptionally friendly attitude shown by all nationalities to few remaining Americans. Understood that passive resistance including strikes in mines and on railways at stated intervals at vital points, here and there is directed from Münster.

ALLEN

862T.01/577a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *January 31, 1923—7 p.m.*

47. For General Allen.

(1) Now that American forces have been withdrawn from the Rhineland, Department has decided to withdraw its observer with the Rhineland High Commission. Accordingly, you should take the earliest available occasion to present the following statement to the Commission:

"I am instructed by my Government to announce to you my retirement as unofficial observer with the Interallied Rhineland High Commission. My Government has maintained an unofficial observer with the Commission in order that it might be properly advised when promulgating regulations in the American zone of occupation, of the actions and general purposes of the Commission. In view of the with-

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[36] Lord Kilmarnock, British High Commissioner.

drawal of the American forces of occupation, my Government feels therefore that the circumstances which warranted it in maintaining its unofficial observer with the Commission no longer exist.

"My Government further instructs me to express its sincere appreciation of the many courtesies which the Commission and its members have shown to the Government of the United States and to its unofficial observer." [37]

(2) You should transmit to the Department the records of your office in so far as these concern your work as American Observer with the High Commission.

HUGHES

OBJECTIONS BY THE UNITED STATES TO DISCRIMINATORY REGULATIONS ON EXPORTS FROM THE OCCUPIED REGION OF THE RUHR

611.629Ruhr/1 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 5, 1923—4 p.m.*

85. The Department states its opinion on the principles governing the situation in the Ruhr, particularly in regard to American commercial interests, as follows, solely for your confidential information: [38]

The entrance by France into the Ruhr regions is believed to be a matter that should be dealt with purely as a question of fact irrespective of any consideration as to the legality or the propriety of the action taken by France, and without manifesting any criticism or approval of such action. The position taken by neutral powers towards the belligerent occupation of foreign territory furnishes a counterpart to the conduct suggested. Sovereignty over foreign territory is not transferred by such occupation, which is necessarily provisional, notwithstanding the fact that during the time of such occupation the lawful sovereign is deprived of the power to exercise its rights as such sovereign. The relinquishment of power to the occupant and the act of depriving the lawful sovereign of power result directly from the action of the occupying power in obtaining actual control of the occupied territory. Neutral States are permitted by international law to accept this result and irrespective of the merits of the occupant's cause to deal with it accordingly. Neu-

[37] This statement was communicated by General Allen to the president of the Interallied Rhineland High Commission, on Feb. 3, 1923.

[38] The remainder of the paraphrase except for the last paragraph was made by the Office of the Solicitor for the Department of State in May, 1923 (file no. 611.629 Ruhr/60).

tral States are not to be considered as taking sides in the conflict if they act in accordance with this principle of international law.

There is seldom in times of peace as distinguished from periods of war, any occasion for occupying a friendly foreign State. There may arise, however, an occasion for such occupation during times of peace. Vera Cruz was occupied by the United States in 1914, first by naval forces and later by military forces. The United States remained in possession of Vera Cruz for a period lasting several months. The Government of the United States during this period made collection of duties and exercised otherwise a broad control with respect to the area in the possession of this Government.

The United States should, in dealing with the occupation of the Ruhr by the French as an actual fact, to be dealt with as such, disclaim any disposition of assuming towards Germany an attitude of unfriendliness or any disposition of yielding to influences of the French, and any intention of taking sides in the contest should also be disclaimed. This Government should accentuate the fact that its sole desire is to protect its own interests and it should be scrupulous to emphasize its neutrality. There should, in the process of accepting the fact of control by the French, be no action taken that would justify an inference that approval is given to the occupant's cause with respect to entering the Ruhr regions, or in regard to the action of the occupying power in maintaining the present regime in these regions.

France must, as the power occupying the Ruhr, be considered to be able to exercise, without objection by foreign neutral States, the fullest administrative powers, and must as an incident of such occupation, be deemed to be able to fix the conditions under which foreign trade may be conducted. If neutral States and their citizens are not discriminated against and there is no abuse of power, it is difficult to find any basis upon which objection could be made to the right of the occupying power to make collection of duties or to license exports or to establish embargoes.

The actual conflict which is at present in the process of development between American commercial interests and French authority relates to cases where abuse is alleged. For example, these cases raise questions as to whether all exports to Germany can be placed under embargo; whether there can be requisitioned or seized all products of any particular class (such as metallurgical products); whether nationals of Germany can as such nationals, be prohibited from applying for export licenses, and whether a failure on the part of a shipper to present an export license which was issued in October

1922 (but which is at the present time in Berlin in the possession of the German Clearing House at that place), would justify confiscation. There is also the broader question, whether there can be imposed upon the same transaction by any lawful means two export taxes (one German and the other French).

Notwithstanding the broad powers exercised by the occupying power there are two forms of conduct that should be guarded against and protested against in a special manner. (*a*) Where any discrimination is applied against American traders in favor of traders who are French nationals, making it possible for these nationals to take advantage, for their own benefit, of existing conditions. (*b*) Any action that would have the result of duplicate export taxes being exacted. Only one authority can, in contemplation of law, exercise control over a particular place at any one time. The sole authority to exact an export license is the government, whether of France or of Germany, which actually asserts and exercises control over localities in the Ruhr from which exports are made. In the case of *MacLeod* v. *United States*, 229 U. S. 416, 432, the Supreme Court of the United States in 1912 [*1913?*] declared in substance as follows: A Government is without right to impose the collection of duties a second time where an attempt is made to impose such second collection upon a cargo which has been consigned from a foreign port to a port which is under the occupation of a *de facto* government in cases where the *de facto* government has "compulsorily required" the making of a payment of like duties; and the Court interpreted an Act of Congress as not having such a violation of international law in contemplation. Thus where exports are actually controlled by the French Government that Government should be required to adopt the following course: Either to prevent levying by foreign authority of any other like taxes or if payments have been exacted by a foreign authority within the Ruhr to respect such payments. If it is to be considered that France in fact controls the region of the Ruhr any German administrative agencies that may be allowed to operate within this region must be considered, from an international standpoint, to be agencies of the French. The Government of the United States is justified in taking this position and in demanding in cases where second payments have been exacted in territory which has been declared to be under the control of the French a refunding of the second payments. The Government of the United States should, in the course of its efforts to obtain protection for American commercial interests, be careful to avoid being drawn into a controversy of any kind on the question of whether the French occupation is justified by the Treaty of Versailles. (notably by Article

number 18 of Annex number II following Article number 244, or by Articles Numbers 428, 429 and 430). This Government should also refrain from giving any expression of opinion as to whether, aside from the Treaty of Versailles, the Government of France is justified in its conduct; also as to whether the treatment accorded nationals of Germany by the French in the Ruhr is abusive or illegal in nature. Any effort that may be made by the Government of the United States should be limited to an attempt to check any conduct of the occupying state that may be directed in an unjust manner against American commercial interests either in the way of discrimination against them or otherwise.

Any method which may be adopted for the protection of American interests is complicated somewhat by the considerations which follow: (*a*) The broad scope of the power or authority of the occupying State; (*b*) The meager facts to which the attention of the Department of State is called at the time when complaints are made; (*c*) The effect of the many complaints in individual cases on the influence of the Government of the United States to obtain the recognition by the Government of France of the exact principle upon which the Government of the United States acts. Every one of these points is deserving of brief attention.

Notwithstanding the fact that the region of the Ruhr is not French territory, but German, the rights of the occupying power in this region are vast. The rights of the occupying State as tested by the powers of a belligerent occupant of hostile territory enable the occupying power to be the judge in the last analysis of the existence of its own emergency and the extent to which such emergency may exist. The quasi-neutral State is not to be considered as occupying the position of spokesman of the inhabitants (inhabitants of German nationality in this case) of the region concerned; and the quasi-neutral power is not in a position to make complaint of ruthless treatment of such inhabitants except to the extent that it may generally in cases of barbarities which shock the sensibilities of civilization, raise its voice in protest against such barbarities. Thus with a view to seeing whether the exact conduct complained of is a violation of the solid rights of its own, the quasi-neutral State must ever be on the alert.

Any action that may be taken by the Department of State based on a meager set of facts, to the extent that such action embraces the making of a complaint, is likely to have a result of an unfortunate nature. This objection is, however, obviously not applicable in cases where consular investigations of particular cases are made, particularly where information furnished by telegraph points to treatment

of a severe nature on the part of the occupying power or to an emergency existing at the time.

If, in individual cases, complaints are to be made, such complaints should be based on the most solid legal grounds and should rest on facts not to be refuted. Individual interposition may be justified in cases of double taxation or in cases of special discrimination directed against an American firm, or possibly also in cases of flagrant injustice, (which the facts in a particular case may develop). However that may be, the Department should, it is believed, seek primarily to point out clearly to the Government of France the broad and exact grounds upon which the Government of the United States as a quasi-neutral asserts its rights.

It is believed, in a word, that the Government of the United States should make a demand for the recognition of the principle that occupation by the Government of France carries with it responsibility of the French for any occurrences within the region of the Ruhr which the Government of the United States may fairly regard as being contrary to international law; and that the occupying power will be held to strict accountability for any abuses of power, such as above indicated, and in particular for the levying of double taxes on exports and for any discriminatory acts that are distinctly adverse to American citizens.

Repeat the foregoing to the Embassies in Great Britain as Department's no. 45, in Germany as no. 17, in Belgium as no. 23, and in Italy as no. 17. Send a summary by courier to the American consul at Cologne for his confidential information.

HUGHES

662.009 Ruhr/47

The Ambassador in France (Herrick) to the Secretary of State

No. 2973 PARIS, *March 22, 1923.*

[Received April 5.]

SIR: I have the honor to transmit herewith enclosed copy and translation of a circular dated March 15th, 1923, received from the Foreign Office, setting forth the resolution adopted by the Interallied Rhineland High Commission, at its meeting of March 15th, which grants certain temporary facilities to foreign purchasers in regard to orders placed before February 1st, 1923, with German firms in German territory at present occupied by French troops.

I have [etc.] MYRON T. HERRICK

[Enclosure—Translation]

Resolution of the Interallied Rhineland High Commission, March 15, 1923

The Interallied Rhineland High Commission, at its meeting of March 15th, has adopted the following resolution, which grants certain temporary facilities to foreign purchasers, in regard to orders prior to February 1, 1923:

"I. When an order of general interest is involved, the competent Interallied Authorities may authorize the foreign purchaser to substitute himself for the defaulting exporter, as regards the request for export licence, provided the latter has given his authorization and assumed in respect to the German Authorities the responsibility of the ensuing derogation to the German laws in force.

These provisions will be specially applied to orders for which total or partial payment may have been made before February 1st. In case any of the aforementioned conditions cannot be carried out, the Interallied Authorities may exceptionally authorize special exports.

In both the cases mentioned, the export taxes to be charged will be those in force on the date when the orders were passed; an exemption from the obligation to deposit foreign currency may eventually be granted.

II. To obtain the benefit of the provisions indicated above, the foreign purchaser shall make application to the interested Interallied Service, namely:

To the Directing Committee of Licences of the High Commission for goods emanating from suppliers located or established in the Occupied Territory, with the exception of those located within the Dusseldorf and Duisburg bridgeheads and the occupied Ruhr valley;

To the Licence Service of the Mission of Control of the Factories and Mines at Essen, for goods emanating from suppliers located within the Dusseldorf and Duisburg bridgeheads, as well as in the occupied Ruhr valley.

This application must be accompanied by a certificate guaranteeing the date of the order, the total or partial payment before February 1st, as the case may be, and also showing that the supplies present a character of general interest.

This certificate must emanate from:

a) The Representative of the Nation to which the purchaser belongs in the High Commission or in the Interallied Licence Services, if that Nation has such a Representative;

b) The Diplomatic Representative of the purchaser's Government accredited to one of the Governments represented in the Interallied Services, if the purchaser does not belong to one of the Nations represented in the High Commission or in the Interallied Licence Services.

Requests will be received until May 1, 1923."

Pursuant to General Degoutte's [39] decision, these provisions are also applicable in the occupied territory of the Ruhr.

611.629Ruhr/7 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 11, 1923—5 p.m.*

146. Department refers to your despatch no. 2973, of March 22, 1923, regarding the new regulations for the licensing of shipments from the Rhineland and the Ruhr.

Point out to the Foreign Office that the feature in the regulations which requires that American diplomatic representatives certify each application for a license would tend toward placing the Government of the United States in the position of guaranteeing the statements made in the certificates; the Government is, of course, unable to do this, not only because of impossibility to ascertain the facts in each instance without a long delay, but also because a practice of this sort does not come within the purview of the functions of our diplomatic representatives. This regulation will, moreover, work real hardship on those of our nationals who are placed, under its terms, in a position less favorable than are the nationals of the countries which participate in the Interallied High Commission or in the customs service.

After you have explained to the Foreign Office why this feature of the regulations is regarded as impracticable of operation and as being discriminatory in fact, you should next express this Government's interest and the hope that the French Government will be disposed to modify the licensing regulation so that American buyers, who in good faith entered into contracts for goods from the Rhineland and the Ruhr at a date prior to February 10, 1923 (the date given the Department by the French Embassy here), may be permitted to obtain an export license through an application made directly by the buyer's business representative, assisted by the local American consular authorities, without requiring in each instance the certification by a diplomatic representative of this Government of the application.

Inform Department promptly by cable.

Repeat to Embassy in Belgium as Department's no. 28, making appropriate changes.

HUGHES

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[39] Commander of the French occupational forces in the Ruhr.

611.629Ruhr/13 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 16, 1923—6 p.m.*

[Received April 16—4:30 p.m.]

201. As instructed I have submitted the subject of your no. 146, April 11, to the Foreign Office. I have just received a formula from the Foreign Office of the statements I am to sign in accordance with the requirements of the Interallied Rhineland High Commission's resolution of March 15. The formula states that I certify, in conformity with instructions of my Government, that the merchandise for which a license is requested from the High Commission for the (insert name of firm) answers to following conditions (insert specifications of weight and value of the merchandise) purchased by (insert name of purchaser), made under contract of (insert date); that payment has been made in whole or in part or not at all; that merchandise was deliverable on (insert date); that the German manufacturer refuses to take out a license and that he has or has not authorized the buyer to substitute himself for the exporter in making this request; and that I declare that the execution of this order has "general interest" for the United States.

I lost no time in informing the Foreign Office that the Department would not authorize me to sign such a statement. I was told in reply that the Foreign Office would be satisfied if I made only the statement in regard to the "general interest" of the merchandise in question; this, the Foreign Office maintains could without difficulty be ascertained through the local Chamber of Commerce or similar institution in the United States. The formula, it was explained, represents the maximum required, and I was informed that remaining statements may be made in occupied Germany by the American purchaser concerned.

It is my opinion that it is the object of the French Government to maintain a strict control over exports to all countries but, as in the case of the United States, to facilitate exports as much as possible in certain instances. The point made is that in the case of the United States the diplomatic representative of that Government is merely taking the place of the representative on the Interallied High Commission who in the case of his own nationals certifies in a similar manner, and that there is, therefore, no discrimination against the United States.

The French Government has assured me that it desires to accommodate all foreign commercial interests, but that it is anxious to avoid fraud in regard to export licenses.

The date to which you refer should be February 1 and not February 10.

I should appreciate the Department's instructions as I am daily receiving requests from American commercial interests.

HERRICK

611.629Ruhr/13 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *April 19, 1923—5 p.m.*

161. Your no. 201, April 16, 6 p.m. The proposal made by the Foreign Office does not meet the objections which have been raised by the Department in its previous telegrams for in each instance active intervention by American diplomatic representatives is still required. In addition the fact remains that if American buyers must attend to a part of the necessary formalities at an appreciable distance from the licensing offices, the additional expense entailed, the delay and confusion involved would be prejudicial to their interests in comparison with the nationals of more favored nations who may complete all formalities in the occupied territory.

For this reason the Department requests you to bring these considerations before the Foreign Office again and to urge the modification of the regulations so as to permit American buyers to make direct application for export licenses, with the assistance of the local American consular representatives.

With reference to the correction of dates stated in your telegram, the French Embassy informed the Department, presumably under instructions from the Foreign Office, that the dates in question for American buyers are February 10 and May 10. Obtain confirmation from the Foreign Office.

HUGHES

611.629 Ruhr/15 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *April 24, 1923—4 p.m.*

[Received 4:45 p.m.]

215. Your no. 161, April 19, 5 p.m. I have twice taken up the subject of your instruction with the Foreign Office. I was informed, as the explanation of its attitude, that according to the German laws which the French Government continued to apply in the Ruhr, the export licenses ordered must be requested by the manufacturer, but that the French Government, as a favor to foreign commerce, is will-

ing to set this provision of German law aside and permit the purchaser to request licenses with his Government's support. This is what is requested of the United States Government for merchandise supplied to the United States. Foreign Office referred to its request as moderate and invited attention to the broad interpretation of the phrase "general interest". Foreign Office also stated that this plan has been adopted by all countries and mentioned the smooth manner in which it is working. The principle involved in the Department's attitude is recognized, and the Foreign Office would welcome any suggestions which would tend to a mutually satisfactory formula. I have consulted my colleagues in regard to the matter and I learn that they have accepted the requirements laid down by the French and are conforming to them, although before accepting them the Dutch, Swiss, and Swedish representatives had made numerous protests separately.

It was intimated by the Foreign Office that the time limit in which applications for export permits will be received will probably be extended beyond May 1.

The dates referred to in your last paragraph are confirmed by the Foreign Office as February 1 and May 1.

HERRICK

611.629Ruhr/15 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *April 28, 1923—5 p.m.*

173. Your 215, April 24, 4 p. m.

If the points enumerated in Department's 161, April 16, 6 P. M. [*April 19, 5 p. m.*], have been made quite clear, the Department fails to understand the attitude of the Foreign Office in the matter. Since informal representation seems to be ineffectual, you should address a note in the following sense:

"I am instructed by my Government once more to bring urgently to your attention the clear discrimination against American nationals in the recent regulations whereby American traders desiring to export goods from the Ruhr are compelled to secure from the Embassy in Paris a certification of their request for an export license, whereas nationals of countries represented on the Rhineland High Commission may obtain such certification from their representatives in Coblenz.

My Government has not complained of the French demand for official certification and is, indeed, appreciative of the expressed desire of the French Government to facilitate trade in the occupied territories, but protests solely against what appears to it as the obviously unfair discrimination enforcing American purchasers, at additional expense and delay, to attend to a part of the necessary

formalities at such considerable distance from the licensing office. Not only does this put American traders at a disadvantage financially, but it causes confusion and criticism and will inevitably have an unfortunate effect on American public opinion.

My Government, therefore, earnestly requests the French Government to extend to American traders facilities equal to those enjoyed by traders whose Governments are represented on the Rhineland High Commission by accepting, in lieu of diplomatic certification on applications for licenses, the certification of the American consul in Coblenz.

As soon as the French Government shall have accepted this clearly equitable arrangement, my Government will instruct the consul at Coblenz as to means of procedure in accord with French regulations."

You should deliver this note in person, making clear the very great interest of the Department in a prompt and equitable settlement of the matter.

HUGHES

611.629 Ruhr/24 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *May 4, 1923—5 p.m.*
[Received May 4—3:52 p.m.]

232. Your 173, April 28, 5 p.m.

Commercial attaché suggests that he be authorized to issue informal letter forwarded to American buyers in the occupied regions for presentation to the Rhineland Interallied High Commission expressing his appreciation of any courtesies in issuing exportation permits. Such letters would not give guarantee of any kind by commercial attaché. We are agreed that the letters may relieve the severe losses being suffered by American houses pending the settlement of the question with the Foreign Office.

HERRICK

611.629 Ruhr/29 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *May 7, 1923—6 p.m.*
[Received May 8—9:42 a.m.]

237. Your 173, April 28, 5 p. m. In reply to my note of April 30 addressed to the Minister of Foreign Affairs in accordance with the Department's instruction I have received the following which I quote in full:

"By a letter dated April 30th last you were good enough to call my attention to the discrimination which appeared to exist in the

eyes of the American Government to the detriment of American trade in the commercial regime set up by the Allied Governments in occupied Germany.

The anxiety manifested in this respect by the Washington Cabinet appears to rest on a misunderstanding both concerning the commercial regime in question as well as the measures taken by the Allied Governments to amend it in favor of the interests concerned. The commercial regime existing in the occupied territory is one which arises from the laws and regulations established by the German Government itself for the whole extent of German territory. Obliged on account of the continued defaults of the German Government to take its place in the exercise of certain rights particularly concerning the collection of customs dues the Allied Governments did not deem fit to use all of the rights given to them by the Treaty of Versailles other than those inscribed in article 270. They have therefore respected as far as circumstances enabled them to do so the commercial regime established before their intervention.

But the German Government having adopted a series of measures in order to thwart the action of the Allies as [*and?*] to disorganize the economic life of the occupied regions, the Allies have endeavored to attenuate the effects on the foreign interests concerned by special measures.

Thus among other measures the Interallied Rhineland High Commission in its ordinance of March 15 authorized foreign buyers to substitute themselves for the defaulting German sellers when it is a question of orders placed prior to February 1st, that is to say, until a date when not a single merchant or manufacturer in the occupied territory could ignore the seizure of the customs by the Allies and its consequence, this seizure having taken place on the preceding January 20. The applicants' Government had only to certify through diplomatic channels the character of general interest of the order giving rise to the request for an export license. Digest of modalities [*sic*] of applications were however to be taken according to whether it was a question of nationals of powers represented or not on the Interallied High Commission.

Indeed the Interallied High Commissioners could not be otherwise than competent to [re]present with all the necessary official undertakings the requests for exceptions coming from their Governments and which they were to examine while the powers not represented on the Interallied High Commission were to instruct one of their representatives near one of the Allied Governments to deliver the necessary attestation in order to bring about the exceptional procedure established by this formula, an inevitable consequence of the different situation, because [*but?*] it is no discrimination of which American trade can legitimately complain.

The certificate made out by the duly authorized diplomatic authority is transmitted directly to the High Commission at Coblenz where all the necessary measures are taken for the rapid delivery of the necessary authorizations for the issuance of export licenses. The applications submitted by nationals of third powers are examined at the same time and in the same spirit as those which are made in favor of nationals of the powers represented on the

Interallied High Commission. The authorizations are delivered on the spot to the persons authorized by the interested parties or to the interested parties themselves; no delay can exist on this count and no complaint has been made on this point by the interested Governments.

The American consul in the Rhineland can therefore intervene on these bases with good results in favor of his compatriots. He will find in all the service the High Commission and particularly in the French services all desirable facilities. But the Allied Governments cannot in any way allow his intervention in the procedure [followed] in making applications for licenses on the same footing as the High Commissioners. Of its own free will the American Government withdrew from all the Interallied organizations and it cannot claim the advantages therefore even theoretically as is the case in the premises without assuming the obligations thereof.

The Allies have endeavored—in this respect they have practically succeeded—to insure to the commerce of third powers all the advantages of which they have recognized the granting as compatible with their policy without discrimination of any kind. They cannot, however, under present circumstances concede to the American consul at Coblenz a position that could not be granted to all consular representatives of neutral countries: any concession in this respect would end in the complete disorganization of the regime established in favor of neutral trade and in view of the formal decision of the Allied Governments to continue their action as long as may be necessary, the maintenance of the American request could have no other consequence than the complete suppression of the favored regime which the Allies have been happy to grant in the interest of foreign trade and the economic life of the occupied regions.

Please accept, Mr. Ambassador, etc. Signed, R. Poincaré."

HERRICK

611.629Ruhr/24 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *May 8, 1923—6 p.m.*

189. Department's no. 173, April 28, 5 p.m. Your no. 232, May 4, 5 p.m. Department desires you to make another urgent personal effort to obtain a favorable response from the Foreign Office to your recent representations. Should this endeavor prove unsuccessful and if you have on the other hand been able to obtain an extension of the time limit which expired May 1, you are authorized, if you have reason to believe that American interests are in jeopardy, to state to the Foreign Office that, although the Government of the United States reserves its position and continues to believe that the present regulations discriminate against American interests, your Embassy

will, nevertheless, issue temporarily some general statement like the following:

"The exportation from the occupied regions of Germany of the merchandise referred to in the accompanying application and other documents desired by (insert name of firm) would be for the benefit of American interests."

Make it very clear that this is a temporary measure and does not indicate any change in the position taken by this Government, which will issue these certificates only in order to prevent serious losses; and that you are instructed to continue your representations for the removal of the discriminatory regulations.

Inform Department briefly by cable of all details which would be of use to it in notifying American firms interested what necessary formalities are to be followed.

HUGHES

611.629Ruhr/33 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

[Paraphrase]

BRUSSELS, *May 9, 1923—7 p.m.*
[Received May 9—6:15 p.m.]

45. Department's telegram no. 28, transmitted by Paris Embassy.[40] The Foreign Office in a note of May 8 mentions the provisional character of the regulations but states that it would be impossible to change them. The objections to the issuance of certificates, however, are not specifically considered. It is stated that foreigners are not thought to be in a less favorable position than are the nationals of the occupying countries or of those represented on the services, for the reason that the latter must have complete documentation whereas for foreigners certificates obtained from their diplomatic missions are sufficient. Belgian note will be sent by mail tomorrow.[41]

THAW

611.629Ruhr/37 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *May 11, 1923—6 p.m.*
[Received 7:25 p.m.]

239. Your no. 189 of May 8, 6 p.m. I have complied with your instructions and in reply am able only to refer you to the note from

[40] See telegram no. 146, Apr. 11, to the Ambassador in France, p. 200.
[41] Note not printed.

the Foreign Office which was communicated to you in the Embassy's telegram no. 237, May 7. The time has been extended for receiving applications from American buyers for contracts which have been made prior to February 1 for an indefinite period. The Department's formula set forth in telegram no. 180 in regard to American interests is satisfactory to the French Government.

It will be necessary for the American buyer to make application to the Interallied Rhineland High Commission at Coblenz for an export license, stating the character and the quantity of goods, the value of the order, name of German manufacturer, date of contract, and submit evidence as well that the contract was made prior to February 1; also a statement whether full or partial payment has been made. A copy of the contract should accompany the application. Application may be submitted with the Embassy's statement which will be transmitted to Coblenz by the Ministry for Foreign Affairs. If preferable, it may be transmitted with appropriate instructions to the American consulate at Coblenz. Foreign Office states that it is willing that American consul at Coblenz handle all export license applications.

All Embassy has to do is in each case to make the statement contained in your no. 189.

HERRICK

611.629Ruhr/37 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *May 14, 1923—6 p.m.*

193. Your 239, May 11, 6 p.m.

Department proposes to issue following statement outlining procedure in making application for export licenses:

"American buyers intending to apply for export licenses for goods in occupied Germany must address their applications to the Rhineland High Commission at Coblenz, stating the date of contract, quantity and character of goods, the value of order, name of German supplier and submit evidence showing that contract was made prior to February 1st and that payment has been made either in whole or in part. Copy of contract should accompany application.

However, the authorities in occupation stipulate that applications must be accompanied by a statement covering the American interest in the shipment. Accordingly, until further notice American buyers should first submit the application direct to the American Embassy in Paris or Brussels, which will issue the statement required and forward it with the application to the American Consul at Coblenz, who in turn will present the application to the High Commission for approval. When application is returned, the Consul will, upon re-

quest, turn it over to the American buyer's agent or representative, who should then make all arrangements with appropriate licensing office for delivery of the license and payment of export tax to the authorities in occupation.

Department is informed that time for receiving applications from American buyers for contracts made previously to February 1st has been extended for an indefinite period; that authorities in occupation on May 1st restored the German export tariff schedule as of 1921 instead of the uniform 10% tax which has temporarily been collected; that German firms are now authorized by their Government to deliver goods involved in commercial transactions made prior to February 20th, provided they have first obtained a German export license." [42]

If you perceive any objection to this statement cable Department immediately; otherwise it will be released to the press on Tuesday afternoon.[43]

Inform embassies at Brussels and Berlin and Consul at Coblenz of details of plan, asking latter to cable Department if he will require extra assistance temporarily. Department will endeavor to have Department of Commerce instruct its Attachés at Paris and Brussels to render such assistance as may be required.

HUGHES

CONSIDERATION OF THE DISPOSAL TO BE MADE OF THE TANK SHIPS OF THE DEUTSCH-AMERIKANISCHE PETROLEUM GESELLSCHAFT UNDER THE ARRANGEMENT OF JUNE 7, 1920 [44]

862.1158t21/331

The Unofficial Representative on the Reparation Commission (Boyden) to the Secretary of State

PARIS, *June 21, 1923.*
[Received July 5.]

MY DEAR MR. SECRETARY: I beg to hand you copy of the brief filed in behalf of the Reparation Commission before the independent

[42] Information telegraphed by the Embassy in Germany on April 27.

[43] In accordance with suggestions made by Ambassador Herrick the final paragraph of the statement was reworded as follows: "The Department is informed that the authorities in occupation on May 1st put into force an export tariff based on the German export tariff of 1921 instead of the 10% ad valorem tax which has been temporarily collected and, furthermore, that the time for receiving applications from American buyers for contracts made previously to February 1st has been extended for an indefinite period. However, American buyers are urged to expedite their applications as much as possible. The Department also understands that German firms are now authorized by their Government to deliver goods involved in commercial transactions made prior to February 20th, provided they have first obtained a German export license." The statement was issued to the press on May 16.

[44] For the text of the agreement, see *Foreign Relations*, 1920, vol. II, p. 598.

tribunal appointed under the agreement between the United States and the Reparation Commission, dated June 7, 1920.[46]

This brief, which of course is already in the hands of Standard Oil Counsel, was prepared by Mr. H. L. Gwyer, formerly legal advisor to our Maritime Service, to whom the Commission entrusted the duty. It is a strong presentation of the view unfavorable to the claim of the Standard Oil Company.

The reply to this brief will be prepared and presented by the Standard Oil attorneys, and one need not fear that there will be any inadequacy in their argument, but inasmuch as the argument is nominally made in behalf of the United States and in form presented by the United States, it is probably desirable that counsel for the Department should familiarize themselves with this brief before the reply of the Standard Oil is submitted to the Department. It is also true that the Department, under the previous Administration, committed itself to a certain view regarding this case; that the question was debated very hotly and was prominently before the public. For these reasons, the Department may be more interested than in the ordinary case where it would be concerned merely to give American interests proper standing and reasonable support before an international tribunal, without itself taking any position regarding the claims.

Without intimating any doubt as to the case itself, it occurs to me also to suggest that the Department may wish to consider its position in the contingency of a decision unfavorable to the Standard Oil. Under these circumstances, two obligations will be incumbent upon the United States under the terms of the tanker agreement. First, for the return of the tankers; second, for the accounting contemplated by the agreement. If the obligation to return arises, it is desirable that the Department should be in position to accomplish the return with the promptness which ought to be the characteristic of compliance with such an international arbitration. In the same sense the Department ought to be in position to furnish the accounting promptly and in such shape as to carry conviction of its accuracy and completeness, accompanied by whatever payments it might call for.

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[46] Brief not printed. The plan for the formation of this tribunal was approved in the following telegram of June 16, 1921, from the Secretary of State to the Ambassador in France:

"Department agrees to plan proposed for formation of tanker tribunal. This contemplates designation of Colonel Bayne by United States and designation of second member by Reparation Commission and the designation of a third member if it should become necessary, by the first two. It is preferable that an English speaking Dane, Norwegian or Swiss be selected. Standard Oil has also indicated its approval of plan. The company expresses hope however that in view of recent decision of Reparation Commission in the case of Danzig vessels adjudged to belong to Standard Trust Company of Zoppot, it will now be possible to reach a direct settlement without trouble, expense and delays of an arbitration." (File no. 362.115 St 21/280.)

The brief takes strongly the position, in substance, that there is no such legal principle as beneficial ownership by a security holder of property of a corporation. I should be inclined to say that this point was foreclosed by the agreement itself, which has always struck me as a recognition of such a principle. Such a term in such an agreement must mean something, though the agreement does not explain what it does mean.

On the question of ownership I understand the facts to be, in substance, as follows:

The Standard Oil now owns all but about one-half of one per cent of the securities of the D. A. P. G. Company. Prior to our entry into the war the Standard Oil owned all the stock (30,000,000 marks) and all the bonds (30,000,000 marks) except 31,500 marks. Its pre-war ownership with respect to all the bonds of the Company and with respect to about seventy per cent of the total stock of the Company has never changed, but just prior to the entry of the United States into the war, the Standard Oil undertook to transfer about thirty per cent of the stock (9,000,000 marks) to a German national, and this thirty per cent of the stock was actually transferred on the books of the Company. It may be important also that this percentage of the stock comprised all the voting shares, although it represented only 3/20 of the capital investment, the Standard retaining the remaining 17/20.

Payment by the German national was to be made six months after the end of the war, and as security for payment the German national delivered to the Standard Oil certain of his own American securities. In February 1919 the United States Alien Property Custodian, after considering the transaction, decided that the transaction constituted an illegal attempt at evasion, and that the American securities of the German national still belonged to him, and must be dealt with by the Alien Property Custodian. Such a decision would obviously involve the conclusion, so far as the Alien Property Custodian is concerned, that the sale of the shares in the D. A. P. G. was invalid.

Since the Treaty went into effect the shares transferred to the German national have been re-transferred to the Standard Oil with the exception of 563,000 marks owned by the Hamburg American Line, and secured by it from the German national to whom the Standard made the supposed sale. How the Standard secured the retransfer and whether it involved compensation by the Standard Oil to German nationals, or vice versa, we do not know. The brief of the Standard Oil mentions the re-acquisition of the shares but does not state the details.

Assuming the principle of beneficial ownership, and assuming also that beneficial ownership results from any holding of obligations or shares which is not total, the proportion of the Standard Oil's interest in the company would seem to be sufficient, particularly considering the continuous ownership of all the bonds, regardless of the validity of the transfer of thirty per cent of the stock to the German national, but, if, as claimed in Mr. Gwyer's brief, voting control is an important factor, then the validity of the transfer is a serious element in the case.

Yours very truly,

R. W. Boyden

362.115St21/337

The Unofficial Representative on the Reparation Commission (Logan) to the Secretary of State

Paris, *November 13, 1923.*
[Received November 26(?).]

My Dear Mr. Secretary: Reference is made to the letter of Mr. Boyden, dated June 21, 1923, relative to the Standard Oil tanker arbitration and relative to the duties which would fall upon the United States with respect to the return of the vessels if the arbitration was not concluded in favor of the claimants.

I am just in receipt of confidential information from an unofficial but dependable source that the independent tribunal, which has been for some months considering the arguments of the Standard Oil Company and of the Reparation Commission, is about to decide that the transfer of these vessels by the German Government to the Reparation Commission was perfectly valid and that the Standard Oil has not made out its case for restitution of the vessels pursuant to the terms of the arbitral agreement of June 7, 1920.

That agreement provided that if the Standard Oil made good its claim to beneficial ownership of the tankers, then they would be returned. Apparently the tribunal takes the view that a stockholder in a corporation does not own legally, equitably, or beneficially, the actual property of the corporation. The Standard Oil contended that since it owned the stock of the D. A. P. G., a German corporation which in turn owned the tankers, that consequently the Standard Oil was beneficial owner of the vessels. Probably one of the decisive points in the tribunal's decision in this respect was the circumstance that the Standard Oil sold 30% of its stock to a German just before the United States entered the war, which stock it did not re-acquire until two or three years after the Armistice; hence the question was

whether the holder of 70% of the stock of the corporation beneficially owned the corporation's assets.

Alternatively the arbitration agreement provided that if the Standard Oil did not have beneficial ownership but was shown to be entitled to financial reimbursement, then such reimbursement would be paid in tankers instead of cash. This provision had regard to paragraph 20 of Annex II, Part VIII of the Treaty of Versailles which stipulates that the Reparation Commission, in accepting payments from Germany, shall have due regard to the legal or equitable interests of Allied nationals. The tribunal seems to consider that a stockholder has neither a legal nor an equitable interest in the assets of the corporation. It is the corporation which possesses both the legal and the equitable estates in the corporation's property. Furthermore, it is doubtful what is meant by the expression "the Reparation Commission shall have due regard". In no other case has any allowance been made to stockholders in steamship corporations which lost their vessels. Furthermore, Germany adopted a law, uniform in its application, compensating its nationals, as far as possible, for the loss of their vessels. Under this law, at a time when the mark had substantial value, the D. A. P. G., the Standard Oil's subsidiary, received over 75 million marks for the property for which financial reimbursement is now claimed.

I suggest that it is not prudent or desirable to communicate the foregoing to the Standard Oil Company until the tribunal has reached a formal decision. It is always possible, of course, that some new fact or legal theory might alter the conclusion which, I confidentially understand, has been arrived at. However, there may be some preliminary steps you wish to take in the direction of carrying out the suggestions made in Mr. Boyden's letter of June 21, 1923 in the event that the final decision from the tribunal conforms to the advance information outlined above.

Faithfully yours,

JAMES A. LOGAN

862.1158t21/337 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *December 12 [?], 1923—5 p.m.*

457. L–20. For Logan.

Department astonished at proposed decision of Tanker Tribunal indicated in your letter of November 13, which seemingly not only disregards principles underlying tanker agreement but terms of agreement itself.

While Department recognizes that the agreement is not couched in the clearest terms possible, this is due to the circumstances surrounding its negotiation. In its inception the tanker dispute related to the temporary allocation of tankers during armistice. Dispute not having been settled when treaty came into force the question of their permanent disposition was incorporated into the negotiations which were carried on with the other governments concerned, first through their representatives on the Supreme Council, then through Kemball-Cook [47] and finally through Bradbury.[48] In view of necessity of obtaining approval of a number of states to each provision it was not practicable, upon the change in situation, to reopen provisions of the agreement on which concurrence had been reached. It should be borne in mind that the Reparation Commission in finally signing the agreement acted not only for itself but for the other interested states. These states therefore can be considered to have acquiesced in any decision by the tribunal regarding the disposition of the tankers in pursuance of the agreement.

The views of the United States in the case were set forth at length in the Department's 3532 of October 22, 1919, to American Mission, Paris,[49] and were communicated to the Supreme Council. This Government has consistently maintained these views. It stated therein that "the provisions of Annex III, paragraphs 1 and 3 (Reparations) are to be applied only with regard to the principle established by paragraph 20, Annex II (Reparations) which requires in the broadest sense recognition of 'legal or equitable interests' . . ." The telegram also pointed out that the United States was entitled to the "pre-execution of paragraph 20 of Annex II (Reparations) and of the latter part of the Lloyd George agreement [50] which were both adopted in contemplation of the tanker situation."

Examination of the files indicates clearly that the views of the United States embodied in these quotations were acquiesced in by those representing the other governments in the negotiations and showed clearly that the agreement was based on the principles embodied in paragraph 20 of Annex II, Part VIII and in paragraph 5 of the Wilson-Lloyd George agreement which in part provides "that if any Allied or Associated or Neutral Government, person or corporation, a national of such Government and acting through such Government, notifies the Commission that they have an equitable claim against any vessel which has not been, or is not being satisfied

[47] Mr. Basil A. Kemball-Cook, assistant British representative on the Reparation Commission; in 1920 Mr. Kemball-Cook was director of naval sea transport, British Ministry of Shipping.

[48] Sir John S. Bradbury, British representative on the Reparation Commission.

[49] *Foreign Relations*, 1920, vol. II, p. 554.

[50] *Ibid.*, p. 512.

by the enemy governments, that claim will be considered on its merits by the Commission which may adopt any procedure it thinks fit, provided it is expeditious and is calculated to do substantial justice as between the Allied and Associated Governments on the one hand and the claimant on the other."

While Wilson-Lloyd George agreement has not been ratified its provisions must nevertheless be considered in interpreting the meaning of the tanker agreement since it was contemplated by the parties that the principles embodied in paragraph 5 were applicable in respect to the disposition of the tankers. The decision of the Reparation Commission referred to in paragraphs 23 and 24 of the brief filed on behalf of the Commission with Tanker Tribunal in answer to the claim of the Standard Oil Company is binding neither on the Tribunal nor the United States. Moreover the Reparation Commission expressly stated this decision to be without prejudice to the tanker claim.

In consonance with above principles this Department, throughout the negotiations, has, as Mr. Wallace was instructed to inform the Conference of Ambassadors in telegram 529 of March 13, 1920,[51] taken the position that "this Government cannot consent that legal or equitable interests of its citizens can be used to indemnify another power or its citizens for losses inflicted by Germany."

The indicated view of the Tribunal that a stockholder has neither legal nor equitable interest in the assets of the corporation, not only violates the terms of the tanker agreement but is contrary to the position taken by the Allied Governments. The beneficial ownership of the D. A. P. G. tankers by the Standard Oil was recognized by the Allies in 1914, and in view of this beneficial interest these governments permitted transfer of a number of tankers to American flag. In case of the *Leda* a bond required and taken by Great Britain in consideration of the release recited that application had been made on the ground of "beneficial ownership" and that on said application the King had agreed to release the ship to the Standard Oil Company. There has since been no change in status of ownership of German company save possibly with respect to the 9,000,000 marks of voting shares representing approximately one sixth of total financial interest of Standard Oil in that company. The right to vote has no direct bearing on beneficial interest. However, even assuming the validity of such sale the Standard Oil concededly still owned, in addition to 30,000,000 marks of debentures, 21,000,000 marks of non-voting shares, and thus retained a vastly preponderant financial interest in the German company with respect to which, in accordance

[51] *Ibid.*, p. 588.

with principles embodied in the agreement, it should not suffer a loss through the action of states associated with the United States in the war.

In evidence of the broad meaning given the term beneficial ownership as used in the negotiations and agreement, attention is called to Department's statement in its 273 of February 3, 1920, to Embassy at Paris [52] that it understood the claim to mean "that on proof by the Standard of its preponderant financial interest in the D. A. P. G. by whatever name such interest may be called, whether described as beneficial ownership or as value, and whether based on ownership of shares, of share warrants, or of debentures, the tankers shall remain with the Standard Company finally and under the American flag."

In considering phraseology of agreement it should be remembered that during the negotiations it was not feasible to pass upon proof of Standard Oil's claim of interest in German company nor upon validity of attempted stock sale, but these were deemed matters for determination by the Tribunal: Also that everyone understood that Standard Oil did not claim any lien, mortgage or other direct proprietary interest in tankers: Furthermore, while there was never any dispute of principle that Standard Oil should be compensated for any financial loss suffered were tankers taken under treaty, however, tankers being vital to company's business, some negotiation was necessary in order to reach an agreement that such compensation should be in tankers rather than money.

Department considers that the meaning of paragraph G is that should Standard Oil fail to establish beneficial ownership, nevertheless it should be compensated for any loss suffered, such compensation being in tankers. It was recognized that such payment might involve adjustments with Reparation Commission or Germany and this paragraph contains express provisions on this point. It even provides for adjustment of any payment for tankers made by Germany to German company, so the payment by Germany to which you refer, of 75,000,000 marks in the greatly depreciated paper currency in no way prejudices the case. The Tribunal has authority to adjust this amount which in no way represented the actual value of the vessels.

It is possible that the Tribunal may not have had before it the background of the agreement. You may therefore submit the substance of the foregoing to Mr. Bayne and if the Tribunal still holds the views indicated in your letter he may in turn bring these views to the attention of the other members of that body.

HUGHES

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[52] *Foreign Relations*, 1920, vol. II, p. 584.

362.115St21/340 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *December 29, 1923—11 a.m.*
[Received December 29—9:37 a.m.]

548. From Logan. L–69.

First. Supplementing my L–51.[53] Understand tanker tribunal is giving due consideration to contents of your L–20.[54] They have asked Standard's attorneys for certain additional facts.

Second. Personally inclined to think that previous forecast of probable decision still continues correct. Much impressed quotation you made from Department's 273 of February 3, 1920, to Paris Embassy as to scope of claim. However, unfortunately language paragraphs (*f*) and (*g*) several times changed between February 3 and June 7, 1920, date of final tanker agreement. It is naturally the language finally adopted which tribunal is legally interpreting. Presume you have taken note of Boyden's B–92 of May 11 [*19*], 1920,[55] particularly to viewpoints and purposes of Bradbury as expressed therein and his emphasis upon each pre-defining meaning of term beneficial ownership. This despatch seems to indicate a narrower construction at least on the part of Great Britain than that mentioned in Department's 273 above.

Will advise promptly of any developments. Logan.

HERRICK

[53] Not printed.
[54] *Supra.*
[55] *Foreign Relations*, 1920, vol. II, p. 592.

GREAT BRITAIN

EFFORTS TO MAINTAIN AMERICAN CAPITULATORY RIGHTS IN PALESTINE PENDING AGREEMENT BY TREATY REGARDING THE BRITISH MANDATE[1]

175.1/32

The Secretary of State to the Vice Consul at Jerusalem (Cobb)

WASHINGTON, *December 28, 1922.*

SIR: Reference is made to the Consulate's despatches No. 859 of February 6, 1922, and No. 864 of February 11, 1922,[2] in regard to the conclusion of a provisional arrangement between the Consulate and the Legal Secretary for the Palestine Government as to the procedure to be followed in civil and criminal cases in Palestine in which American citizens are defendants.

The procedure agreed upon for civil cases is understood to be substantially as follows:

(1) The summons shall be served on the defendant according to the regular procedure of the Palestinian Civil Courts and not through the Consulate;

(2) The defendant shall appear before the appropriate Civil Court and plead that he is an American citizen, and he shall produce the necessary proof of his citizenship;

(3) Any person claiming American citizenship shall be permitted and assisted by the Palestine authorities to obtain proof from the American Consulate as to his claim;

(4) If the Court is satisfied of the American citizenship of the defendant, it shall refer the papers to the Legal Secretary for the Palestine Government, who shall in turn submit them to the American Consulate in order that the case may be tried by the Consular Court;

(5) If the defendant does not raise the plea of jurisdiction at the first hearing of the case and a judgment is given against him, he shall not be entitled to resist execution on the ground that he is an American citizen.

For criminal cases the procedure agreed upon is understood to be substantially as follows:

(1) The summons of the accused person or, if necessary, his arrest shall be carried out in the same way as in the case of a Palestinian subject;

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[1] For previous correspondence concerning the British mandate for Palestine, see *Foreign Relations*, 1922, vol. II, pp. 268 ff.

[2] Neither printed.

(2) The accused, if an American citizen, shall raise a plea to the jurisdiction, either at the criminal investigation before the Magistrate or at the trial of the charge, and he shall produce the necessary evidence;

(3) The Court, if satisfied that the accused is an American citizen, shall refer the papers to the Legal Secretary for the Palestine Government, who will transmit them to the Consulate;

(4) Should the Consulate make application, an American citizen accused of a criminal offense and arrested shall, upon the establishment of his American citizenship, be transferred to the custody of the Consulate.

The procedure above outlined appears to have been put into effect, subject to a reopening of the discussion in the event that the Department should raise any question in regard to it. In submitting the agreement for the Department's approval the Consulate requested instructions as to whether it might ask the local authorities to hold in prison an American citizen against whom a charge had been substantiated in the Consular Court and also as to the method by which payment to the local authorities for the detention of such a prisoner might be made and charged in the accounts of the Consulate.

The Department appreciates the desirability of a definite arrangement as to the procedure to be followed in cases such as were the subject of the provisional arrangement between the Consulate and the Legal Secretary for the Palestine Government. The procedure agreed upon appears to the Department to be, on the whole, well adapted to its object, but it is believed that it is necessary or desirable to modify or supplement it in the particulars indicated below:

(1) It should be made clear that the procedure is applicable only with respect to cases in which American citizens as defendants are opposed by Palestinian or Ottoman subjects. Cases in which American citizens as defendants are opposed by persons not of Palestinian or Ottoman nationality come within the exclusive competence of the American Consular Court.

(2) In civil cases in which the defendant is generally known to be an American citizen or is in possession of documents constituting prima facie evidence of American citizenship, service of summons should be through the Consulate, as provided for in Article 17 of the Ottomon Code of Commercial Procedure, which reads, in translation, as follows (See Young's *Corps de Droit Ottoman*, Volume VII, page 158):

"If the party summoned is a foreign subject, the service of the duplicate of the summons shall be made upon him only through the intervention of the Consul or of the dragoman of the Legation upon which he depends. The said Consul or dragoman shall examine the duplicate which the bailiff shall take back."

(3) When a defendant in a civil case in a local court alleges American citizenship and has not in advance of all procedure given a written submission to the jurisdiction of the court, a representative of the American Consulate should be present at all proceedings of the court, as contemplated in the Treaty of 1830 between the United States and Turkey and in the Protocol of 1874 (See *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and other Powers, 1776–1909*, Volume 2, pages 1319, 1346 [*1344*]).

(4) The execution of the judgment of a Palestinian court against an American citizen should in no case be effected without the assistance of the American Consulate, in accordance with the usage referred to in the following passage translated from Du Rausas' *Le Régime des Capitulations dans l'Empire Ottoman*, Volume I, page 440:

"There is a third limitation upon the rule of the competence of the Ottoman jurisdictions. This limitation, which relates to the execution of judgments and orders of court, results from a principle which we have studied above, the principle of the inviolability of the domicile of the foreigner. We have seen that this principle was analyzed in the following manner: the Ottoman authorities can enter a house inhabited by a foreigner only with the authorization and assistance of the Consular authority upon which that foreigner depends. The consequence of this principle, from our present point of view, is the impossibility of the execution by the Ottoman authorities of court orders issued or judgments pronounced against foreigners, without the authorization and assistance of the foreign authority."

(5) Defendants who are generally known to be American citizens or are in possession of documents constituting prima facie evidence of American citizenship should not be summoned to appear before local courts in criminal cases, and, except in cases of urgent necessity, they should not be arrested except at the request or with the assistance of the Consulate, as contemplated in the Treaty of 1830 and the Protocol of 1874.

(6) It should be made clear that, since local courts are entirely without jurisdiction over American citizens in criminal cases, the omission of an American defendant to plead his citizenship as a ground for exemption from the jurisdiction of the local court in a criminal case does not deprive him of any right.

You are authorized to communicate to the Legal Secretary for the Palestine Government the sense of the foregoing.

With reference to your request for instructions as to the detention of American prisoners in Palestinian jails and the method of accounting for the expenses of such detention, you are informed that, in the opinion of the Department, the question of the advisability of asking the local authorities to imprison American citizens against whom a

charge has been substantiated in the Consular Court is within the discretion of the consular officer in charge. A separate statement should be rendered for expenses of prisoners, fully itemized and supported by vouchers in the form of receipted bills. Form No. 194—Consular—copies of which are enclosed with this instruction,[2a] should be used for itemizing board and lodging. The amount shown by this form should be included in the statement mentioned above. The total amount of the account should be carried as a separate item in the account current, under the heading "Expenses of prisons for American convicts".

I am [etc.] CHARLES E. HUGHES

175.1/37

The Vice Consul at Jerusalem (Cobb) to the Secretary of State

No. 1104 JERUSALEM, *March 3, 1923.*
[Received March 29.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction of December 28, 1922, concerning certain modifications in the provisional arrangement between this Consulate and the Legal Secretary of the Palestine Government as regards the procedure to be followed in civil and criminal cases in Palestine in which American citizens are the defendants.

The Chief Secretary of the Palestine Government has agreed to the modifications, which were outlined in the Department's above-mentioned instruction, and has issued instructions to the Palestinian Courts that they be put into effect.

I have [etc.] GEORGE C. COBB

175.1/41 : Telegram

The Vice Consul at Jerusalem (Cobb) to the Secretary of State

JERUSALEM, *July 20, 1923—4 p.m.*
[Received July 21—4:55 a.m.]

Reference capitulations: Chief Justice Palestine Government has verbally informed me that our capitulations are not in accord with the Palestine order in council (enclosure to my despatch no. 1018, September 6, 1922[3]) and Attorney General has verbally informed me local government cannot force him to comply with instructions of the Chief Secretary, referred to in my despatch no. 1104, March 3, 1923, though lower courts have and are continuing to do so.

[2a] Enclosure not printed.
[3] Not printed.

Article 87 of the aforementioned order in council authorizes High Commissioner to amend order in council but for political reasons it appears inexpedient to local government lest other nations who have not successfully maintained their capitulations might be offended. It appears necessary that action to this end be taken through London.

COBB

175.1/43 : Telegram

The Vice Consul at Jerusalem (Cobb) to the Secretary of State

JERUSALEM, *August 11, 1923—2 p.m.*

[Received August 12—4:40 p.m.]

Referring to my telegram of July 18[*20?*], 4 p.m. Court of Appeals has handed down decision that American capitulations are not in accordance with the order in council and therefore courts should refuse to recognize Chief Secretary's instructions regarding same. Chief Secretary states that he has communicated with Colonial Office regarding amendment to the order in council. I am insisting upon maintenance of our rights, but it will be necessary that order in council be amended if local courts are to recognize our rights in regard to the trial of American citizens.

COBB

175.1/43 : Telegram

The Secretary of State to the Vice Consul at Jerusalem (Cobb)

WASHINGTON, *August 15, 1923—3 p.m.*

Your August 11, 2 p.m.

You may inform High Commission that until Allied Treaty with Turkey is ratified and an agreement between the United States and Great Britain regarding recognition of British mandate in Palestine is arrived at the Department trusts that the terms of the arrangement between the British Legal Secretary and your office will be followed.

The Department is taking the matter up with London.

HUGHES

867n.01/359a

The Secretary of State to the Chargé in Great Britain (Wheeler)

No. 977 WASHINGTON, *October 4, 1923.*

SIR: The Department encloses for your information copies of communications which have passed between the American Consulate at Jerusalem and the British Legal Secretary for Palestine, and copies of correspondence between the Department and the American Consulate at Jerusalem, relating to the jurisdiction in civil and criminal

cases which the American Consular Courts in Palestine exercise by virtue of the capitulations.

You will note that an agreement was reached between the British Legal Secretary and the American Consulate to the effect that in cases in which American citizens as defendants are opposed by persons not of Palestinian or Ottoman nationality, these cases come within the exclusive competence of the American Consular Court; that in civil cases in which the defendant is generally known to be an American citizen or is in possession of documents constituting prima facie evidence of American citizenship, service of summons should be through the Consul; that when a defendant in a civil case in a local court alleges American citizenship and has not in advance of all procedure given a written submission to the jurisdiction of the court, a representative of the American Consulate should be present at all proceedings; that the execution of the judgment of a Palestinian court against an American citizen should in no case be effected without the assistance of the American Consulate; that the defendants who are generally known to be American citizens or are in possession of documents constituting prima facie evidence of American citizenship, should not be summoned to appear before local courts in criminal cases and, except in cases of urgent necessity, they should not be arrested except at the request or with the assistance of the Consulate; that since local courts are entirely without jurisdiction over American citizens in criminal cases, the omission of an American defendant to plead his citizenship as a ground for exemption from the jurisdiction of a local court in a criminal case does not deprive him of any right.

This agreement was confirmed to the Department by a despatch from the American Consulate at Jerusalem, dated March 3, 1923, in which it was stated that,

"The Chief Secretary of the Palestine Government has agreed to the modifications, . . . (as outlined above) and has issued instructions to the Palestinian Courts that they be put into effect."

You will further note, however, that in a cable to the Department dated July 20, 1923, the American Consulate at Jerusalem informed the Department that the British Chief Justice of Palestine and the British Attorney General do not consider themselves bound by the instructions of the Chief British Secretary on the ground that the Palestine Order in Council, 1922, conflicts with the agreement.

The Order in Council above referred to provides in Sections 58 and 59 that:

". . . The Civil Courts shall exercise jurisdiction over foreigners, subject to the following provisions:

"59. For the purpose of this part of the Order the expression 'foreigner' means any person who is a national or subject of a European or American State or of Japan, but shall not include:

"(i) Native inhabitants of a territory protected by or administered under a mandate granted to a European State.

"(ii) Ottoman subjects.

"(iii) Persons who have lost Ottoman nationality and have not acquired any other nationality."

It is stated in the cable referred to that whereas Article 87 of the Order in Council authorizes the High Commissioner to amend the Order it appears, for political reasons, inexpedient to the local Government to do so.

As the capitulatory rights enjoyed by Americans in Palestine remain intact in the absence of an agreement concerning the formal recognition by the United States of the British Mandate over Palestine, you are instructed to address an appropriate communication to the Foreign Office embodying the information and considerations outlined in this instruction and stating that this Government trusts that appropriate instructions will be sent to the Palestine authorities in order that any case now pending in the Palestine Courts involving American citizens may be treated in conformity with the agreement arrived at between the British Legal Secretary for Palestine and the American Consulate at Jerusalem.

You may add that in view of the recent conclusion of a Treaty of Peace between the Allied Powers and Turkey, this Government is quite prepared to take up for early consideration, in case the British Government deems the moment opportune, the correspondence with regard to the recognition by Treaty of the British mandate in Palestine. In this connection you are referred to the Department's instruction to you, No. 792 of January 31, 1923,[5] and to previous correspondence on the same subject.

I am [etc.] CHARLES E. HUGHES

867n.01/363 : Telegram

The Vice Consul at Jerusalem (Cobb) to the Secretary of State

JERUSALEM, *October 31, 1923—10 a.m.*

[Received 7 p.m.]

Officially informed Palestine mandate definitely effective September 29th. Increasing difficulties with civil courts. Protested to local government who have again requested instructions from London.

COBB

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[5] Not printed; this instruction transmitted copy of memorandum of Jan. 20, 1923, to the British Embassy, printed in *Foreign Relations*, 1922, vol. II, p. 310.

867n.01/371

The Chargé in Great Britain (Wheeler) to the Secretary of State

No. 3180 LONDON, *November 30, 1923.*
[Received December 15.]

SIR: Supplementing my telegram No. 536 of November 30, 5 p.m., 1923,[6] I have the honor to enclose two notes from the Foreign Office, dated November 29, 1923, on the subject of the difficulties which have arisen in Palestine through the issuance of an Order in Council conflicting with the agreement made by the American Vice Consul in Jerusalem with the local authorities, and with regard to the desire of the British Government to conclude an Anglo-American Treaty recognizing the British Mandate in Palestine.

I have [etc.] POST WHEELER

[Enclosure 1]

The British Secretary of State for Foreign Affairs (Curzon) to the American Chargé (Wheeler)

No. E 11386/1899/65 [LONDON,] *29 November, 1923.*

SIR: I have the honour to acknowledge the receipt of your note No. 1069 of 20th ultimo on the subject of jurisdiction over United States nationals in Palestine[7] and to inform you that the matter has for some time past been under the consideration of His Majesty's Government who have been fully aware of the difficulties of the situation to which you have drawn attention. The salient facts are substantially as recorded in your note, but the situation has recently come to a head over a civil suit which was first submitted to the District Court of Jerusalem in August 1922.

2. In the course of 1922, correspondence had taken place between the United States Vice Consul in Jerusalem and the Palestine administration, as a result of which United States Capitulatory Rights with certain quite minor modifications were to be maintained in force until such time as an agreement should have been concluded between His Majesty's Government and the United States Government on the subject of the British mandate for Palestine. By the terms of the arrangement reached with the United States Vice Consul it had been laid down in a confidential notification to the district courts of Palestine dated 8th February 1922 that in civil cases, where the defendant was an American citizen, and the court was satisfied that the latter's national status was established, the

[6] Not printed.
[7] The Chargé's note was apparently based on Department's instruction no. 977, Oct. 4, p. 222.

case should be referred by the District Court to the legal secretary of the Palestine Government for trial by a United States consular court. On the 15th August 1922 one Zaslevsky, an Ottoman subject, sued one Goldberg, an alleged American citizen, before the District Court in Jerusalem for the balance of an account. The court in accordance with the above mentioned notification refused to try the case on the grounds that the defendant being an American national was justiciable before a United States consular court.

3. Thus far, therefore, the procedure laid down by mutual agreement pending the conclusion of a treaty between the two countries in regard to the mandate was rigidly followed. Negotiations in regard to the terms of the treaty were also in progress and were so far advanced, that a speedy conclusion was anticipated.

4. The necessity of establishing the Legislature and Judicial Organisation of Palestine on a definite basis as soon as the terms of the mandate for Palestine were approved by the Council of the League of Nations, led to the framing of the Palestine Order in Council of 1922 which actually came into force on 1st September of that year. This instrument, in the prospect of an early entry into force of the terms of the mandate, on the one hand, and of the anticipated early conclusion of an agreement with the United States Government on the other, contained provisions for jurisdiction over foreigners in articles 58 and 59 to which you refer. Insofar as other foreigners previously enjoying capitulatory rights in Palestine were concerned, the request of the League of Nations that Great Britain should carry on the administration of Palestine in the spirit of the mandate, and subsequently the actual entry into force of the terms of that instrument on 29th September last, have had the effect, in accordance with article 8 of the mandate, of suspending the capitulatory privileges of all powers except the United States of America in that country for as long a period as Great Britain holds the Mandate. This suspension of the capitulations in Palestine may not be legally applicable to the United States of America until the treaty recognising the mandates is concluded, but the present situation is none the less that in the absence of such recognition the United States Government are claiming to exercise on behalf of United States nationals the privilege of withdrawing them from a jurisdiction which rests upon British principles of justice, and which has been accepted by all other powers.

5. His Majesty's Government recognize that the inclusion of nationals of American states in the category of those foreigners for whom judicial provisions were made in articles 58 and 59 of the Palestine Order in Council of 1922 was inconsistent with the assurances given to the American Vice-Consul in Jerusalem by the local administration. In these circumstances they admit that it has be-

come necessary to reconcile the juridical position arising out of the Order in Council with those assurances, and are ready to consider what steps should be taken to regularize the position. Recourse cannot be had to the expedient of modifying the terms of the Order in Council in accordance with the provisions of article 87 thereof, owing to the fact that over a year has passed since the Order in Council entered into force, with the result that the provisions of the article referred to have now lapsed. It was for this reason, and not, as suggested in the sixth paragraph of your note, on account of political considerations, that the American Consulate at Jerusalem was informed that action could not be taken. His Majesty's Government are advised that nothing short of the enactment of fresh legislation would satisfy the request made in your note under reply, and that this would have to take the form of an amending Order in Council withdrawing United States nationals from the operation of the 1922 order until such time as an agreement shall have been concluded between the United States of America and Great Britain on the subject of the mandate. I cannot conceal from you that the publication of an amending Order in Council of this nature would at any time be a vexatious administrative measure. Its effect on the local situation would be particularly unfortunate at the present time, when the justification of His Majesty's Government in singling out United States nationals for special treatment would not be properly understood either in Palestine or by the League of Nations when once it is realised that your government are seeking to maintain in an area under British control what they have already voluntarily surrendered in Turkey by the treaty which Mr. Grew signed on behalf of the United States of America at Lausanne on the 6th August last.[8]

6. The last paragraph of your note indicates that the United States Government are quite ready to take up for early consideration the convention for the recognition of the British mandate over Palestine. Since I shall have the honour to address you a further communication on this matter I will confine myself here to pointing out that the early conclusion of this agreement which allows United States nationals to pass under the jurisdiction of the Palestine Order in Council of 1922 without further difficulty or delay would obviate the necessity for the enactment of the amending Order in Council referred to in the preceding paragraph and would therefore, as far as His Majesty's Government are concerned, provide the most satisfactory way out of the present situation. In these circumstances His Majesty's Government earnestly hope that the United States Government will agree that the best method of regularizing the present position is by taking immediate steps to negotiate the con-

[8] *Post*, p. 1153.

vention referred to above. Pending the conclusion of this convention, His Majesty's Government are willing at once to instruct the High Commissioner for Palestine to request the Chief Justice to make arrangements to ensure that American citizens shall enjoy all privileges accorded to foreigners by the Palestine Order in Council, whether the American citizen concerned claims the right or not.

I have [etc.] CURZON OF KEDLESTON

[Enclosure 2]

The British Secretary of State for Foreign Affairs (Curzon) to the American Chargé (Wheeler)

No. E 11386/1899/65 LONDON, *29 November, 1923.*

SIR: With reference to the last paragraph of your note No. 1069 of the 20th ultimo [9] I have the honour to state, for the information of your Government, that His Majesty's Government are most anxious to conclude the treaty for the recognition by the United States of America of the British Mandate in Palestine as soon as possible. The last correspondence which was exchanged on this subject was in October 1922 when a note, a copy of which is enclosed for your information, was addressed to Mr. Harvey.[10]

2. I have the honour to request that the views of the United States Government on the amendments which were introduced into the text of the treaty to meet the wishes of the State Department, may be ascertained with a view to the early conclusion of this instrument.

I have [etc.] CURZON OF KEDLESTON

NEGOTIATIONS TO ENSURE BY TREATY THE RIGHTS OF THE UNITED STATES IN TERRITORIES UNDER BRITISH MANDATE [11]

B Mandates

800.01 M 31/152 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *March 21, 1923—5 p.m.*

61. Reference your despatch No. 1748 of October 11, 1922, and to enclosed British note of September 30,[12] subject African mandates.

Please present to Lord Curzon a note as follows:

"With reference to Your Lordship's note of September 30, 1922, regarding the British mandates for the administration of certain

[9] The Chargé's note was apparently based on Department instruction no. 977, Oct. 4, p. 222.

[10] *Foreign Relations*, 1922, vol. II, p. 304.

[11] Continued from *Foreign Relations*, 1922, vol. II, pp. 268–333.

[12] *Ibid.*, pp. 304 and 330, respectively.

former German territories in tropical Africa and the proposed treaties relative thereto, I have the honor to inform Your Lordship that my Government, animated by the desire of reaching an early agreement with the British Government in this matter, and in view of the assurances contained in paragraph 5 of your note that the British Government has not the slightest intention to discriminate against United States nationals or institutions by subjecting their operations to restrictions not equally applicable to British nationals and institutions, is disposed to accept the wording proposed by the British Government for Article 8 of the Mandate for East Africa and Article 7 of the Mandates for Togoland and the Cameroons, which is substantially similar to paragraph 1 of Article 2 of the Treaty between the United States and Japan, regarding the former German Islands North of the Equator,[13] without making this acceptance subject to the insertion in the treaties of an additional article.

It is understood, however, that such acquiescence in the proposals of the British Government with regard to African Mandates in no way affects the position heretofore taken by the Government of the United States with regard to American missionary and educational institutions in territories which may come under A mandates.

My Government regrets that, with regard to the preamble of the African treaties, it is unable to concur in the proposal set forth in Paragraph 7 of Your Lordship's note. However, the Government of the United States, having in mind the position taken in Paragraph 5 of the British note of October 2,[14] as to the preamble for the treaty relating to the Palestine mandate, and the desirability of making the treaties with Great Britain and the treaties with France as to the African territories identical in form and substance, is confident that the British Government will not find it impossible to adopt the text proposed in a memorandum to the British Ambassador of July 8, 1922,[15] which text is substantially the same as that used in the French treaties which have been recently signed.[16]

I have the honor to state further that my Government is willing to proceed immediately to the signature of these proposed conventions, the full texts of which are contained in the drafts transmitted herewith."

[Paraphrase.] You are requested to draw up texts of conventions, in which you should follow draft contained in Department's telegram of July 10,[17] altered as follows:

In article 1 of the treaty you should use the words "consents to", and also add the phrase "hereinafter called the mandated territory".

For article 7 of the mandates for Togoland and Cameroons, and for article 8 of mandate for East Africa, you should employ wording suggested in British note of September 30.

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[13] *Ibid.*, p. 600.
[14] *Ibid.*, p. 304.
[15] *Ibid.*, p. 322.
[16] *Ante*, pp. 8 ff.
[17] *Foreign Relations*, 1922, vol. II, p. 325.

The Department is much gratified that negotiations with French Government have reached satisfactory conclusion by signature on February 13 of treaties relating to African territories under French mandate. There is well-founded expectation also that in a few days an identical treaty will be signed at Brussels respecting Belgian mandate in Africa.[18] The Department hopes that as early as possible you will proceed to signature of proposed British treaties. Requisite full powers will be supplied to you by cable.

In order to avoid possible errors in this instruction as transmitted, the Paris Embassy has been asked to forward to you copies of English text of treaties with France which you should compare with your own draft. Preamble of French treaties should be particularly noted and followed in British treaties. [End paraphrase.]

HUGHES

800.01 M 31/186

The Chargé in Great Britain (Wheeler) to the Secretary of State

No. 3181 LONDON, *November 30, 1923.*

[Received December 14.]

SIR: Supplementing my telegram No. 533, of November 30th, 1923,[19] I have the honor to enclose copies in triplicate of Lord Curzon's note, dated November 26th, 1923, concerning the proposed Anglo-American Treaties affecting the former German territories in Central Africa now administered by His Majesty's Government under Mandate on behalf of the League of Nations.

I have [etc.] POST WHEELER

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the Chargé in Great Britain (Wheeler)

No. W8985/70/98 LONDON, *November 26, 1923.*

SIR: It was with much gratification that His Majesty's Government learnt from Mr. Harvey's note of the 24th March last[20] that the United States Government were now in agreement with them as to the substantive portion of the proposed Anglo-American treaties affecting the former German territories in Central Africa now administered by His Majesty's Government under mandate on behalf of the League of Nations.

2. The delay which has arisen in replying to that note has been caused by the difficulties found to exist in the text of the preamble

[18] Vol. I, p. 433.
[19] Not printed.
[20] See telegram no. 61, Mar. 21, to the Ambassador in Great Britain, p. 228.

suggested by the United States Government for the treaties in question; His Majesty's Government regret that they have not been able, after careful consideration, to overcome their objection to certain passages in this text.

3. In the first place, reference is made to the suggested preamble to benefits accruing to the United States under article 119 of the Treaty of Versailles and confirmed by the Treaty between the United States and Germany signed on August 25th, 1921. His Majesty's Government cannot admit that any benefits have accrued to the United States under a treaty which the latter have not ratified, or that, in the case of the territories now under mandate, Germany retained after the entry into force of the Treaty of Versailles any rights over or in them which she could subsequently transfer to the United States. As was stated in Mr. Harvey's memorandum of the 24th August, 1921,[21] the renunciation made by Germany under article 119 of the Treaty of Versailles was indivisible and no part of the sovereignty over the territories affected remained to Germany thereafter.

4. Paragraph 4 of the suggested preamble states that Japan agreed, and implies that the United States did not agree, that His Britannic Majesty should exercise the mandates now in question. His Majesty's Government are unable to set their signature to a text containing either statement or implication. As is well known, the allocation of the mandates was made unanimously at a meeting of the Supreme Council at Versailles on May 7th, 1919 at which President Wilson, but no Japanese representative, was present. Japan had no part in the allocation; and though Mr. Wilson has repudiated any participation in the decision relating to the island of Yap, I am not aware that it has hitherto been claimed that he did not agree to the distribution of the other mandates.

5. His Majesty's Government have no desire to enter into controversy on these matters; it would [in] their view be of no advantage to do so. It was with the object of avoiding argument that they proposed the simple form of preamble set forth at the end of my note of the 30th September, 1922.[22] They entertain the hope that after further consideration the United States Government will be able to accept either that text or some other which does not raise the difficulties which I have ventured to point out.

I have [etc.] CURZON OF KEDLESTON

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[21] See telegram no. 448, Aug. 4, 1921, to the Ambassador in Great Britain, *Foreign Relations*, 1921, vol. II, p. 106.

[22] *Ibid.*, 1922, vol. II, p. 330.

C Mandates

800.01 M 31/132a : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *July 24, 1922—2 p.m.*

218. Department's 448, August 4, 1921, 8 p.m.[23]

Please present to the Foreign Office a note in the sense of the following:[24]

"In my memorandum of August 24, 1921, on the subject of mandates, I included pursuant to the instructions of my Government the following suggestions regarding the draft mandates for the so-called C mandate territories other than Yap:[25]

(*a*) That article V should be changed so as to embrace nationals of the United States and that it would be preferable, to avoid ambiguity as to educational and charitable activities of missionaries, to have in this article the same provision as in article VIII of the British B mandate for German East Africa;

(*b*) That it was desired that the mandatories should guarantee to the United States most-favored-nation treatment in all C mandate territories, reserving however the present special treaty rights of the United States with respect to German Samoa;

(*c*) That there should be a provision similar to that proposed in the other forms of mandates prohibiting monopolistic concessions or the monopolizing of natural resources by the mandatory;

(*d*) That, as in other cases, any modification of the mandate should be subject to the assent of the United States.

In the communications which my Government has thus far received on the subject of mandates, no direct references have been made to the above points. Your Lordship set forth, however, in notes of December 22 and December 29, 1931,[26] that it has never been the intention of His Majesty's Government to deprive the United States of any of the rights and privileges to which it is entitled as a result of the common victory over Germany, and in particular that His Majesty's Government disclaim any intention to discriminate against United States nationals and companies. In view of these cordial assurances, my Government has assumed that there would be no disposition to deny to the United States in the C mandate territories any guarantees which may be appropriate for the safeguarding of the present or prospective American interests in those territories, and in particular that no action would be taken prior to the assent of the United States to the mandates, which

[23] *Foreign Relations*, 1921, vol. II, p. 106.
[24] Note addressed to the Foreign Office, July 26.
[25] For texts of draft mandates, see *Foreign Relations*, 1921, vol. I, p. 118.
[26] *Ibid.*, vol. II, pp. 111 and 115.

would be discriminatory or otherwise contrary to the spirit of the expected guarantees.

Nevertheless, certain circumstances and action have recently been brought to the attention of my Government, which in the absence of correspondence on the subject of C mandates since my memorandum of August 24 last, appear to my Government to justify an immediate inquiry.

The circumstances and action to which reference is made may be briefly summarized as follows:

1. In my memorandum of August 24, I stated that the Government of the United States had protested against the discriminatory tariff imposed by New Zealand in violation of the treaty concluded at Washington, December 2, 1899.[27] Subsequently, further representations were made and the Embassy was informed some weeks ago that the matter was still under discussion with the New Zealand Government. In the meantime, however, there has been, so far as my Government is informed, no suspension or repeal of the discriminatory duties. Although the treaty rights of the United States are in this instance controlling, my Government believes that, apart from these rights, there should be, prior to the assent of the United States to the mandate, no discrimination of any kind in the mandate territory against the citizens or commerce of the United States.

2. Somewhat similar action appears to have been taken with respect to former German South West Africa. It is understood that an act to amend the tariffs of the Union of South Africa, published in the South African *Official Gazette* of May 30, 1921, and reported to have come into force June 7, 1921, contemplates that this mandate territory should be regarded for customs and excise purposes as a part of the Union, which, it is understood, accords certain tariff preferences to other parts of the British Empire. The result of this legislation would be discrimination against the United States. If it is the purpose of the Union of South Africa to keep legislation of this character in force, the Government of the United States feels that it must request for its goods imported into South West Africa any benefits or preferences accorded to any other similar goods.

3. The Governor General of the Australian Commonwealth on February 22, 1922, proclaimed certain amendments to the regulations under which the Treaty of Peace (Germany) Act 1919–1920, providing for the sale of enemy property and apparently applicable to such property in the mandate territory or New Guinea [*sic*]. The amended regulations contain the following provisions:

> 'The Custodian shall not sell any property to any purchaser other than to
>
> (*a*) a person who is an Australian soldier within the meaning of the Australian Soldiers' Repatriation Act 1917–1920, or who is a natural-born British subject;
>
> (*b*) a company in which the majority of the shares are held by persons who are natural-born British subjects and of which the Articles of Association contain a provision prohibiting the sale

[27] Malloy, *Treaties*, 1776–1909, vol. II, p. 1595.

or transfer of shares in the company to persons who are not natural-born British subjects;

(*c*) a company registered in any part of His Majesty's Dominions, in which the majority of the shares is held by persons who are natural-born British subjects and which is approved by the Attorney-General.'

The effect of such provisions would be to discriminate against American nationals and companies who might desire to participate in the purchase of the property concerned.

4. It appears that on November 22, 1921, an official statement was made in the Australian Parliament regarding oil deposits in mandate New Guinea indicating, if the statement has been correctly transmitted to my Government, that it was at that time the purpose to reserve all such deposits for the exclusive use of the authorities administering the mandate. Previous to this, the feeling was expressed in the Australian Parliament that under class C mandates, such as that of New Guinea, the mandatory might impose whatever restriction it pleased upon both men and goods. Statements of this tenor are less disturbing if it is assumed, as my Government has been inclined to do, that the views of the Government of the United States regarding mandates and the acceptance in general of these views by His Majesty's Government had not at that time been made known to the officials of the Commonwealth. My Government has not been made aware, however, of any subsequent correction of these statements or of any further announcements of a more reassuring nature; and American interests are left in uncertainty regarding the possibility of participation in certain important branches of economic activity in New Guinea.

5. In previous correspondence, I have called Your Lordship's attention to the agreement by the Japanese Government to furnish a duplicate, not a copy, of its annual report which is to be submitted to the League of Nations on the administration of the mandate territories. A provision to this effect is incorporated in the treaty between the United States and Japan relating to the mandated islands in the Pacific north of the Equator, and His Majesty's Government has agreed to the insertion of a similar provision in the proposed treaty relating to Palestine. It is assumed accordingly that there will be no objection to following a similar procedure with regard to the reports on the administration of the C mandate territories administered by the Union of South Africa, the Commonwealth of Australia and New Zealand. Pending the conclusion of a definite agreement regarding all of the C mandates, my Government would be glad to receive duplicates of the reports submitted to the League of Nations on the administration of those territories.

It is hoped that His Majesty's Government will find it possible at an early date to convey to this Government the desired assurances on the points raised by my Government with regard to C mandates and embodied in my memorandum of August 24, and that, until an appropriate treaty is concluded relating to these territories, no action will be taken of a monopolistic character or discriminating against American nationals and companies or otherwise prejudicial to American rights and interests."

HUGHES

800.01 M 31/180a : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

[Extracts]

WASHINGTON, *October 18, 1923—6 p.m.*

287. (1) You are instructed to present the following note to the Foreign Office : [29]

"I have the honor to refer to previous communications on the subject of mandates.

The matter of the so-called 'A' mandates has, of course, been in abeyance pending the settlement of Near Eastern questions.

As to the 'B' mandates, conventions were signed between the United States and France on February 13, 1923,[30] in regard to those parts of Togoland and the Cameroons that are under French mandate, and between the United States and Belgium on April 18, 1923 in regard to the territory of Ruanda and Urundi.[31] In relation to the British 'B' mandates covering portions of Togoland and the Cameroons, I am awaiting reply to my communication of March 24, 1923.[32] I had the honor in that communication to inform your Lordship that my Government, animated by the desire to reach an early agreement with the British Government and in view of your assurances that the British Government did not have the slightest intention to discriminate against United States nationals or institutions by subjecting their operations to restrictions not equally applicable to British nationals and institutions, was disposed to accept the wording proposed by the British Government in Article 8 of the mandate for East Africa and Article 7 of the mandates for Togoland and the Cameroons, which are substantially similar to paragraph 1 of Article 2 of the treaty between the United States and Japan regarding the former German Islands north of the equator without making this acceptance subject to the insertion in the treaties of an additional article. I stated that it was to be understood, however, that this acquiescence in the proposals of the British Government with regard to African mandates would in no way affect the position heretofore taken by the Government of the United States with respect to American missionary and educational institutions in territories which might come under 'A' mandates.

The only point of difference between the two Governments with respect to the 'B' mandates appears to be in relation to the recitals of the preamble of the proposed treaty. It may again be pointed out that the preamble as proposed by my Government is substantially the same as that used in the French and Belgian conventions with respect to 'B' mandates, and in the treaty with Japan with respect to the former German islands in the Pacific Ocean north of the equator.[33] I again express the hope that this wording, which

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[29] Note addressed to the British Secretary of State for Foreign Affairs, Oct. 25.
[30] *Ante*, p. 8.
[31] Vol. I, p. 433.
[32] See telegram no. 61, Mar. 21, to the Ambassador in Great Britain, p. 228.
[33] *Foreign Relations*, 1922, vol. II, p. 600.

has been found acceptable by these three Governments, will be approved by the British Government, especially as it is not understood that there is any difference in the attitude or policy of the British Government which would require a difference in statement.

I desire at this time to refer particularly to the 'C' mandates covering the former German possessions in the Pacific Ocean south of the equator and the territory which formerly constituted German Southwest Africa. As you have been advised, a treaty was concluded between the United States and Japan in relation to the north Pacific islands for which His Majesty the Emperor of Japan is the mandatory. This treaty, signed on February 11, 1922, became effective on July 13, 1922. The general subject of the relation of the United States to mandated territories was considered in the communication which I made to your Lordship, under instructions from my Government, on August 24, 1921.[34] In this communication I referred to the position already taken by my Government that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated Powers and that there could be no valid or effective disposition of these territories without the assent of the United States as one of the participants in that victory. It was assumed, in this view, and in the light of the fundamental principles recognized by the British Government as applicable to the administration of mandated territories, that there would be no disposition to discriminate against the United States or to refuse to safeguard equality of commercial opportunity. . . .

. . . . . .

In your communication of December 22, 1921,[35] your Lordship stated that His Majesty's Government had never desired to deprive the United States of the fruits of victory to which it had contributed, and as they were quite willing to meet the wishes of the United States as regards the British mandates it did not seem necessary to enter into a detailed examination of the general considerations contained in the American note. And in your Lordship's communication of December 29, 1921,[36] it was stated that His Majesty's Government emphatically disclaimed any intention on their part to discriminate against United States nationals and companies or to refuse them full equality of commercial opportunity. These notes, however, so far as the particular provisions of the mandates were concerned, dealt with 'A' and 'B' mandates and did not take up the specific proposals that had been made by this Government as to the 'C' mandates.

On July 26, 1922,[37] I addressed a further communication to Lord Balfour inviting attention more specifically to certain matters relating to the administration of the regions in question, in which the point of view of the Government of the United States was further defined. . . .

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[34] See telegram no. 448, Aug. 4, 1921, to the Ambassador in Great Britain, *Foreign Relations*, 1921, vol. II, p. 106.

[35] *Ibid.*, p. 111.

[36] *Ibid.*, p. 115.

[37] See telegram no. 218, July 24, 1922, to the Ambassador in Great Britain, p. 232.

The reply of His Majesty's Government, under date of August 12, 1922,[38] stated that the desiderata of the United States Government would receive the most careful consideration in consultation with the Governments of the Dominions concerned, and that their views would be presented in due course.

In view of the desirability of an early agreement upon these questions, I trust that it may be helpful to present the views of the United States Government in two draft forms of conventions proposed to be concluded between His Majesty's Government and the Government of the United States for the purpose of settling definitely the relation of my Government to the regions in question. The first draft form is that which it is proposed shall be followed in the conventions concerning the territory formerly the German Protectorate of Southwest Africa, the island of Nauru and the former German island possessions in the Pacific Ocean south of the equator, other than the island of Nauru and former German Samoa. The second draft convention relates to former German Samoa.

. . . . . .

In proposing these conventions my Government has proceeded upon the assumption that there is no difference in principle between the Government of the United States and the British Government as to the appropriate administration of mandate territories and my Government has had in mind the repeated disclaimers by your Lordship of any intention on the part of His Majesty's Government to deprive the United States of any of the rights and privileges to which it is entitled by the common victory over Germany or to discriminate against the United States nationals and companies. In view of these cordial assurances, the Government of the United States is confident that His Majesty's Government will have no disposition to withhold from the United States such guarantees with respect to the 'C' mandates as may be appropriate in order to safeguard American rights and interests in the territories and islands in question.

Accept, etc."

(2) The following is text of draft convention relating to British "C" mandates except Samoa. This text should accompany note:

"Whereas, by Article 119 of the Treaty of Peace signed at Versailles the 28th day of June, 1919, Germany renounced in favor of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions, including therein blank; and

Whereas, by Article 22 of the same instrument it was provided that certain territories, which as a result of the war had ceased to be under the sovereignty of the States which formerly governed them, should be placed under the mandate of another power and that the terms of the mandate should be explicitly defined in each case by the Council of the League of Nations; and

Whereas, the benefits accruing to the United States under the aforesaid Article 119 of the Treaty of Versailles were confirmed by

[38] Not printed.

the treaty between the United States and Germany signed August 25, 1921, to restore friendly relations between the two nations; [39] and

Whereas, four of the Principal Allied and Associated Powers, to wit: The British Empire, France, Italy and Japan agreed to confer upon His Britannic Majesty a mandate to be exercised on his behalf by blank (hereinafter called the Mandatory) to administer the territory of blank; and

Whereas, the terms of the said mandate have been defined by the Council of the League of Nations as follows: (Here insert terms of Mandate); and

Whereas, the United States of America, by participating in the war against Germany, contributed to her defeat and to the renunciation of her rights and titles over her oversea possessions, including blank, but has not ratified the Treaty of Versailles; and

Whereas, the Government of the United States and His Britannic Majesty desire to reach a definite understanding with regard to the rights of the two Governments and their respective nationals in the aforesaid former German territory of blank;

The President of the United States and His Britannic Majesty have decided to conclude a convention to this effect and have nominated as their respective plenipotentiaries:

The President of the United States of America blank, and

His Britannic Majesty blank,

Who, after communicating to each other their respective full powers found in good and due form, have agreed upon the following provisions:

Article 1. Subject to the provisions of the present convention the United States consents to the administration by blank on behalf of His Britannic Majesty, pursuant to the aforesaid mandate, of the former German territory of blank described in Article 1 of the mandate.

Article 2. The United States and its nationals shall have and enjoy the benefit of the engagements of the Mandatory defined in Articles 3, 4 and 5 of the Mandate, notwithstanding the fact that the United States is not a member of the League of Nations.

Article 3. The Mandatory shall insure in the territory subject to the present mandate complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality. American missionaries of all such religions shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the mandated territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government and to take all measures required for such control.

Article 4. Vested American property rights in the mandated territory shall be respected and in no way impaired.

Article 5. The Mandatory shall secure to nationals of the United States of America the same rights as are enjoyed in the mandated

[39] *Foreign Relations*, 1921, vol. II, p. 29.

territory by nationals of the Mandatory in respect of entry into and residence in the territory, the protection afforded to their person and property, the acquisition of property movable or immovable, and the exercise of their profession or trade.

Article 6. The Mandatory shall ensure to the nationals of the United States of America on the same footing as its own nationals freedom of transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organize essential public works and services on such terms and conditions as it thinks just.

Article 7. With respect to import or export duties, other dues or charges, and prohibitions and restrictions affecting commerce, the Mandatory shall not enforce in the mandated territory any provisions of law or administrative regulations involving any discrimination in favor of the nationals or of the products and manufactures of any other member of the League of Nations or any independent state or sub-division thereof, having a separate tariff system, against the nationals or the products and manufactures of the United States. With respect to mandated territory the Mandatory shall extend equally and unconditionally to the commerce of the United States any favor or concession granted to the commerce of any member of the League of Nations other than the mandatory or of any independent state or sub-division thereof having a separate tariff system.

Article 8. Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under mandate and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources, either directly by the State or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources for the benefit of the Mandatory or its nationals, directly or indirectly, nor any preferential advantage which shall be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

Concessions for the development of the natural resources of the mandated territory shall be granted by the Mandatory to nationals of the United States of America on an equal footing with its own nationals.

Article 9. A duplicate of the annual report to be made by the Mandatory under Article 6 of the mandate shall be furnished to the United States.

Article 10. Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate as recited above unless such modification shall have been assented to by the United States.

Article 11. The provisions of Article 10 of the Webster-Ashburton Treaty of 1842, of the Extradition Convention of July 12, 1889, of the Supplementary Extradition Treaty of September [*December*] 13, 1900, and of the Supplementary Extradition Convention of April 12, 1905 between the United States and Great Britain shall apply to the Mandated territory.

Subject to the provisions of the present Convention, other treaty provisions in force between the United States and Great Britain, which are applicable to the territories of the Mandatory, shall also apply to the mandated territory.

Article 12. The present Convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties. The ratifications of the Convention shall be exchanged as soon as practicable. The Convention shall take effect on the date of the exchange of ratifications.

In witness whereof the respective plenipotentiaries have signed this Convention and have affixed thereto their seals.

Done in duplicate at blank, the blank day of blank, in the year of blank."

(3) Draft of Convention concerning Samoa is same as foregoing with the following substituted for Article 7:

"Article 7. The United States shall continue to enjoy in respect to its commerce and commercial vessels in ex-German Samoa privileges and conditions equal to those enjoyed by the Mandatory in all ports which may be open to the commerce of the latter.

No other or higher import or export duties or other dues or charges, prohibitions or restrictions affecting commerce shall be applied to the nationals, or to the products or manufactures of the United States, than are applied to the nationals or to the products or manufactures of the Mandatory."

(4) In preparing copies of draft conventions it will not be necessary to quote terms of mandates in text of preamble, but merely to indicate appropriately in the text that it is proposed to insert their terms in the passage in question.

(5) Please mail at once full text of note and draft conventions as delivered.

HUGHES

DECISION BY THE DEPARTMENT OF STATE TO SUPPORT THE TURKISH PETROLEUM COMPANY'S NEW CONCESSION IN IRAQ (MESOPOTAMIA) PROVIDING FOR AMERICAN PARTICIPATION AND THE OPEN DOOR[40]

890g.6363 T 84/74a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 30, 1923—noon.*

93. The Department considers that in view of the fact that the validity of the Turkish Petroleum Company's claim has been reasserted, it may be desirable that you address to Lord Curzon an

[40] For previous correspondence concerning petroleum exploitation in Iraq (Mesopotamia), see *Foreign Relations*, 1922, vol. II, pp. 333 ff.

informal note bringing again to his attention the note of November, 1921, from this Government,[41] and making special mention of the suggestion therein that if the Turkish Petroleum Company's claim continues to be supported its validity should be determined by some suitable arbitration. You might state further that you believe there is a clear understanding of this Government's position. If you perceive objections to this course you should telegraph your views to the Department.

Inasmuch as this Government's note of November, 1921, remains unpublished and has not yet been answered by the British Government, the Department considers that it may be desirable to make a written statement as suggested above. It seems important also to refute the press statements appearing in England that if arrangements could be made for a suitable American participation in the Turkish Petroleum Company, this Government would not press its views on the question of the validity of that Company's claims. These reports are unwarranted. The views of the Department as set forth in the note of November, 1921, have been steadfastly maintained, and the Department has been informed by the American oil companies that as a condition of their participation in the Turkish Petroleum Company proper measures be taken to have that company's claim validated by the competent authorities, or that the company obtain the grant of a new and valid concession.

HUGHES

890g.6363 T 84/75 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *February 3, 1923—4 p.m.*
[Received 1:55 p.m.]

234. Department's 93, January 30, noon. The following informal letter sent to Curzon today. If eventual publication desirable suggest that it be withheld until Curzon has opportunity to reply if he wishes to do so.

"February 1, 1923. Dear Lord Curzon. In view of your statement at the 21st meeting of the First Commission on January 23rd to the effect that the British Government after full examination of the claims of the Turkish Petroleum Company was convinced and remained convinced of the validity of the concessions given to this company for the oil fields of the Mosul and Bagdad Vilayets by the Turkish Government before the war,[42] I believe it may be desirable to call your attention in this informal manner to the note of my Government presented by Ambassador Harvey to the British Government

[41] *Ibid.*, 1921, vol. II, p. 89.
[42] See Great Britain, Cmd. 1814, Turkey No. 1 (1923): *Lausanne Conference on Near Eastern Affairs, 1922–1923*, etc., p. 361.

on November 17th, 1921,[43] as well as to my statement on this subject on behalf of the American delegation,[44] a copy of which was delivered to you as President at the end of the 22d meeting of the First Commission on January 23rd in which the American attitude towards this question was set forth. I feel sure that my Government's position in regard to the nonvalidity of the claim of the Turkish Petroleum Company is clearly understood from the full exposition given in the note and statement above mentioned having particular regard to the statements that the claim be determined by a suitable arbitration if it continues to be asserted. Sincerely yours, Richard Washburn Child."

AM[ERICAN] MISSION

890g.6363 T 84/77

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Secretary of State

NEW YORK, *February 6, 1923.*

[Received February 8.]

MY DEAR MR. SECRETARY: Referring again to the proposal submitted to the American Group by the owners of the Turkish Petroleum Company, covered by Mr. Piesse's telegram to me of December 12th, of which a copy was enclosed with my letter to you of December 13th,[45] we were advised on January 26th by our London representative that the proposal in question had been amended, and that it could be regarded as definitely freed from any condition as to action to be taken by the State Department.

On the 31st ultimo the American Group met to determine its action with regard to this proposal, and it reached the conclusion, and so advised the Turkish Petroleum Company through its London representative, that the proposal for the 24% participation, with provision for 10% of oil to be deliverable free to Anglo-Persian Oil Company, Ltd., is impracticable as a business proposition. The American Group further expressed the feeling that some other plan acceptable to all interests concerned can be developed through a conference here, and urged that qualified representatives of the interests at present associated in the Turkish Petroleum Company should come here as soon as possible to negotiate and conclude the terms of a participation and of the working agreement.

At the moment we are awaiting definite advices regarding the suggested conference in New York.

Respectfully yours,

W. C. TEAGLE

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[43] *Foreign Relations*, 1921, vol. II, p. 89.

[44] See telegram no. 210, Jan. 24, 1923, from the Special Mission at Lausanne, p. 957.

[45] *Foreign Relations*, 1922, vol. II, p. 347.

890g.6365 T 84/92

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Secretary of State

NEW YORK, *April 17, 1923.*
[Received April 18.]

MY DEAR MR. SECRETARY: For your information, I beg to advise you of recent developments in connection with the negotiations between the American Group and representatives of the present partners of the Turkish Petroleum Company, Limited, for a participation of our Group in that Company.

Mr. H. E. Nichols, one of the Directors of the Anglo-Persian Oil Company, Limited, and also Managing Director of the Turkish Petroleum Company, Limited, accompanied by an assistant, Mr. E. H. Keeling, arrived here March 25th to carry on the discussions in New York with the American Group on behalf of the Anglo-Persian and Royal Dutch interests in the Turkish Petroleum Company. These gentlemen were not directly authorized to represent the French Government interests in the Company.

The proposal which Mr. Nichols brought with him for consideration by the American Group was not acceptable to the Group. Counter-proposals were made by our Group and were under consideration by Mr. Nichols up to the time of his return to London on the 14th instant. He will advise our Group of the views of the respective partners in the Turkish Petroleum Company regarding them. Inasmuch as the negotiations are still in progress, I shall not burden you with an explanation regarding them, unless you wish to be informed.

A draft of the Open Door Formula was agreed upon with Mr. Nichols which we anticipate will be accepted by the present partners in the Turkish Petroleum Company for adoption by that Company. A copy is enclosed for your files. Should you at the present time have any criticism regarding the provisions of this draft, we shall be glad to receive it at your convenience.

The American Group's counter-proposal is open to acceptance by the other Groups until May 21st.

Yours very truly,

W. C. TEAGLE

[Enclosure]

The Text of the "Open Door Formula" as Drafted April 12, 1923

The four groups interested in the Turkish Petroleum Company have agreed on the following principles:

I. The Company shall negotiate a convention with the Iraq Government as soon as possible, granting and confirming to the Com-

pany the rights to develop and operate petroleum resources within the sovereignty of that government comprised within the Vilayets of Mosul, and Bagdad, and fixing the amount of royalty payable to the government.

II. The Company will engage in the development and operation of these petroleum resources, and any other responsible interests of any nationality shall have the privilege of securing rights for the development and operation of petroleum in definite areas within the aforesaid territory for which the Company holds rights.

III. In order to establish the procedure by which such interests may obtain such rights in these areas, the following articles shall govern and shall constitute the Open Door Plan.

A. The exploitation by the Company will be limited to twenty four areas (except as to such areas as shall have once been offered at public auction as hereinafter provided and not disposed of) of eight square miles each, rectangular in shape, of which one side shall not be greater than twice that of any other side, and these twenty four areas shall be selected by the Company within two years from the date of the aforesaid convention between the Company and the Iraq Government.

B. Excluding the aforesaid twenty four areas, the Company shall offer the remaining territory in Iraq held by it for petroleum development at public auction under the following plan:

1. Four years after the date of the aforesaid convention, and annually thereafter until said remaining territory shall have been offered, the Company shall select not less than twenty four areas of eight square miles each, rectangular in shape, of which one side shall not be greater than twice that of any other side, and shall thereupon give notice of the proposed offer of said selected areas at a public auction to be held in the City of London, approximately one year from the date of said notice.

2. The said notice shall be given by the Company by publication in the *Official Gazette* of Iraq and in the leading petroleum trade papers in Holland, France, Great Britain and the United States.

3. Any responsible corporation, firm or individual, including any participant in the Company, shall have the privilege of designating annually from one to four areas of eight square miles each, rectangular in shape, of which one side shall not be greater than twice that of any other side, and any such designated areas shall be included by the Company in its next succeeding annual offer, provided it shall have received notice of any such designation at least one year prior to the publication of the notice of the next succeeding annual offer.

4. Any responsible corporation, firm or individual, of any nationality including any participant in the Company, may bid for the purchase of the rights offered in one or more of said areas so selected or designated, which shall be sold to the bidder who shall offer the highest cash payment and agrees to accept a lease of the

areas acquired on the Company's standard form, and files the requisite bond.

5. The Company shall not become a bidder for any part of these areas.

6. The Company shall grant to the successful bidder under lease in its standard form for the productive life of such sub-lease, the full benefit of all the rights and privileges which the Company holds or may later acquire for the territory in which the sub-leased area is located.

7. Each successful bidder shall deposit with the Company at the conclusion of the sale a certified check, payable on a gold value basis to the Company, for twenty five per cent of the amount payable by him, and the balance shall be paid in gold value on delivery of the lease to such bidder, which shall be made within thirty days after said sale.

8. Each successful bidder shall file with the Company, at the time of the delivery of the lease his or its bond with surety acceptable to said Company, in the amount of two thousand (2,000) pounds Sterling, gold value, conditioned for the faithful performance by the bidder of all the covenants and provisions of such lease, to be so kept and performed by him.

9. Each lessee shall pay to the Company the royalty due from the Company to the Iraq Government with respect to the production from said area.

10. The Company shall afford every responsible party, of any nationality desirous of bidding upon areas to be offered for lease, every reasonable opportunity to make geological surveys in Iraq, and will, upon his application, place at his disposal such geological information as it may have in respect to such areas.

C. As soon as the development warrants and the requisite rights are secured, the Company shall, with due diligence, construct and operate or cause to be constructed and operated, gathering and main pipelines which will provide a transportation system to seaboard and will operate or cause the same to be operated as a common carrier and common buyer of petroleum. At least thirty per cent of the Turkish Petroleum Company's trunk line capacity shall be available for the transportation of its sub-lessees' crude oil at a charge not exceeding one-sixth of a cent per barrel per mile. To the extent that the Company shall hold pipeline rights, the Company shall upon application, grant to any responsible party, licenses or permits for construction and operation of main and gathering pipelines, if such party shall have obtained and operates one or more areas under lease from the Company.

D. The Company shall have the right to own and operate a refinery or refineries within the Kingdom of Iraq and for the purpose of supplying the local markets and its own requirements in Iraq with refined petroleum products, and may engage in the marketing of the same therein, but this right shall not be exclusive, and any other operator under the Open Door Plan shall have the same right.

890g.6363 T 84/117

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Department of State

NEW YORK, *25 October, 1923.*
[Received October 31.]

DEAR SIRS: With reference to the Department's letter of the 9th instant, (its file NE–890–g.6363/226) and to our reply of the 11th instant,[46] I beg to enclose for the Department's information and files copy of the draft convention which was received with a letter from the managing director of the Turkish Petroleum Co., Limited.[47]

We have given careful consideration to the provisions of this draft convention both as to its practical feature from an operating and business standpoint and the application of the so-called Open Door Policy of the Department. As a result of this study we have cabled Mr. H. E. Nichols, managing director of the Turkish Petroleum Co., Limited, today as per the form enclosed, and a letter has been prepared also to Mr. Nichols in comment upon the various provisions of the draft convention, of which we enclose a copy.[47] You will observe that the comments are upon modifications proposed by the Iraq Government Minister of Finance, Sassoon Effendi.

For the Department's information we might add that Mr. E. H. Keeling, Mr. H. E. Nichols' assistant, left on the 11th instant for Bagdad to carry on discussions there with representatives of the Iraq Government, and if he used aeroplane he doubtless already has reached Bagdad.

It is proposed that the Open Door Plan in the form already submitted to the Department shall have the sanction of an agreement between the Turkish Petroleum Company, Limited, and its voting shareholders, and it is our view that article 34 of the draft convention enclosed will permit the Turkish Petroleum Co., Limited, to carry that plan into effect.

The proposed letter to Mr. Nichols will go by Saturday's steamer in order to have our comments, aside from those already transmitted by cable, available to Mr. Keeling, through Mr. Nichols, at the earliest possible moment.

In continuance of our policy in relation to the realization of the Open Door Policy of the Department with regard to Mesopotamia, we are submitting the enclosures with this covering letter in order to enable the Department to express its views with relation thereto. Should the Department have any criticism or suggestion for change

[46] Neither printed; Department's letter of the 9th now filed under 890g.6363 T 84/113.
[47] Letter not printed.

relative to the Open Door phase of the matter we shall appreciate very much receiving promptly any such expression from the Department in order that it may be communicated to Mr. Keeling.

Yours truly,

W. C. TEAGLE

[Enclosure 1—Telegram]

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Managing Director of the Turkish Petroleum Company (H. E. Nichols)

NEW YORK, *25 October, 1923.*

Referring to draft convention accompanying your letter September 28th [48] so far as American Group is concerned it is essential that Keeling should not agree to any modifications which would in any way detrimentally affect the complete application of the open door policy. Article 32 read in connection with article 34 apparently requires sub-lessees to be British companies. We want privilege of having American companies firms or individuals qualify to do business in Iraq on same terms and conditions as British companies. Article 34 Sassoon's suggestion would vitiate principle of open door and is absolutely unacceptable. Suggest following phraseology for article 34: "The company shall have the right and is hereby authorized from time to time to underlet or transfer any part or parts of its rights and obligations hereunder with respect to portions of the defined area to any person firm or corporation irrespective of nationality and on such terms as it may think fit." Add after word "abandonment" last sentence article 35 words "or forfeiture by the company." Our comments on entire draft will be forwarded by Saturday's mail.

TEAGLE

[Enclosure 2]

Draft Convention of September 1923 between the Government of Iraq and the Turkish Petroleum Company Limited

This Convention made the ..... day of ..... 1923 between the Government of Iraq (Hereinafter called "the Government") of the one part and The Turkish Petroleum Company Limited a Company incorporated under the Laws of England whose registered Office is situate at 23, Great Winchester Street in the City of London (hereinafter called "the Company") of the other part.

IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE GOVERNMENT AND THE COMPANY in manner following:

(1) The Government hereby grants to the Company on the terms hereinafter mentioned the exclusive right to explore, prospect, drill

[48] Letter not printed.

for, extract and render suitable for trade petroleum and petroleum products, naphtha, natural gases, tar, asphalte, ozokerite and other bituminous minerals and the right to carry away and sell the same and the derivatives and products thereof. (Sassoon thinks that the Iraq Government will probably desire to exclude from the Concession the bitumen of Hit, the bituminous coal of Salahiyah and the other similar substances which, although chemically akin to Oil, are not actually oil and have been worked separately by the inhabitants for centuries past.)

(2) The period of this Convention shall be 99 years from the date hereof. At the expiration of the said period the Government shall have the right, on giving two years' previous notice in writing of its intention so to do, to purchase from the Company at a price equal to the replacement value at that date less depreciation, which price shall be agreed or failing agreement settled by arbitration in manner hereinafter mentioned, all the plant buildings stores and property of the Company of every sort in the area hereinafter mentioned but if the Government shall not exercise such right then this Convention shall be continued for a further period of 99 years and so on. (Sassoon (1) considers 99 years much too long and suggests 30 years, with an extension when the pipe-line has been built, (2) thinks it unreasonable that at the end of the term the concession should be renewed if the Government don't buy the plant, and holds that the plant should revert to the Government free of charge.)

(3) The area to which this Convention relates (hereinafter called "the defined area") shall be that shewn on the attached map and shaded blue, except that at . . . being Holy Places none of the operations mentioned in Article 1 hereof shall be carried on.

NOTE. Shading to include the Vilayet of Basra as well as the Vilayets of Mosul and Baghdad. (Sassoon thinks that as the Basrah Vilayet formed no part of the original area to which the promise to the T. P. C. referred it should be removed from the concession and form the subject of separate negotiations.)

(4) The Company shall within six calendar months from the date of this Convention commence a detailed geological survey of the defined area. Copies of reports and maps rendered to the Company by its employees in respect of such survey shall be forwarded to the Government. (Sassoon proposes lapse of the concession if the first sentence is not complied with, and a penalty of £20 per day if the reports and maps are not submitted within three months after the Government has called for them.)

(5) The Company shall within three years from the date of this Convention start drilling operations working continuously with a minimum of three rigs and in the event of this provision not being

complied with this Convention shall become entirely null and void on the date on which the said term of three years expires. (Sassoon proposes an increase in the number of rigs from three to five, and that lapse of the concession under this article (which he is willing should not take place until the Company has been given three months' notice to comply) shall carry with it forfeiture of the Company's property in Iraq).

(6) In every calendar year subsequent to the term of three years hereinbefore mentioned the Company and its successors underlessees and assigns together shall drill at the rate of not less than 10,000 ft. per annum in an efficient and workmanlike manner provided always that any excess drilling over 10,000 ft. in any year shall be credited to the amount of drilling required under this article in subsequent years and provided also that the obligation to drill shall cease when the defined area has been fully tested. (Sassoon wants the figure 10,000 increased, and suggests that as, but for the Turkish Government's promise covering the whole of both Vilayets, the Government would have liked to divide the concession, the figure 10,000 ft. (or whatever the figure is) should be split between Bagdad and Mosul, so as to make the company liable to drill 5,000 ft. (or more) in each Vilayet. But he suggests that the drilling obligation in each year should cease when production in that year reaches a certain figure. He also wants a penalty stated in this article.)

(7) Subject to the due fulfilment of article 30 hereof the Company shall maintain in good working order all borings so long as they are productive and shall not do or permit to be done any unnecessary damage to the surface of the lands in or upon which the said borings are situate.

(8) The Company shall cause to be made and kept at its registered office correct and intelligible plans of all borings workings and operations and shall once a year at its own cost furnish to the Government such number as may be desired not exceeding six of true copies of such plans. The Company shall also render to the Government once a year a report on its operations containing such information as may be reasonably required by the Government. Such plans and information shall be treated as confidential by the Government. (Sassoon proposes a penalty of £20 per day failing submission of plans etc. after 3 months' notice from Government.)

(9) The Company shall take all practical measures to prevent the injurious access of water to the oil-bearing formations and of noxious waste products into the water of Iraq, and if any well be abandoned shall plug it immediately upon the casing being withdrawn.

(10) In consideration of the privileges herein conceded the Company shall pay to the Government yearly within three months after the end of each calendar year the sum of four shillings per ton of the crude petroleum won from the defined area and saved in field storage tanks or reservoirs by the Company during the preceding calendar year, but for the purpose of this provision the Company shall be entitled to deduct from the gross quantity so won and saved:—

(*a*) all water and foreign substances;
(*b*) all crude petroleum distributed under Art. 17 hereof;
(*c*) all petroleum used for the usual and customary purposes of carrying on the works of the Company [and for domestic consumption in the houses and offices of agents and workmen for the time being employed in and about the borings and premises of the Company;
(*d*) the first 1000 tons of petroleum extracted from each well or boring.][49]

The Company shall avoid as far as possible all waste of petroleum. (Sassoon considers that the royalty should be on a sliding scale, so as to be commensurate with the Company's profits. He also asks for the omission of the part in brackets.)

(11) The Company shall measure all crude petroleum won and saved and the duly authorised representatives of the Government shall have the right to be present at such measuring.

(12) Any duly authorised representative of the Government shall have the right to examine and test the appliances used for measuring as aforesaid, and if upon such examination or testing any such appliance shall be found to be out of order, the Government may require that the same be put in order by and at the expense of the Company, and if such requisition be not complied with in a reasonable time the Government may cause the said appliance to be put in order, and may recover the expense of so doing from the Company, and if upon such examination as aforesaid any error shall be discovered in any such appliance, such error shall, if the Government so decide, after hearing the Company's explanation, be considered to have existed for three calendar months previous to the discovery thereof, or from the last occasion of examining the same, in case such occasion shall be within such period of three calendar months, and the royalty shall be adjusted accordingly. (Sassoon suggests that the three months be increased to six in view of the difficulties of travelling.)

(13) The Company shall keep full and correct accounts of all crude petroleum measured as aforesaid and of all amounts of petro-

[49] On the file copy the section here enclosed by brackets is roughly enclosed by penciled braces; it is evidently the omission desired by Sassoon.

leum distributed to local inhabitants under Art. 17 hereof or used within the defined area under clause (*c*) of article 10 hereof and the duly authorised representatives of the Government shall have access at all reasonable times to the books of the Company containing such accounts and shall be at liberty to make extracts therefrom and the Company shall at its own expense within three calendar months after the end of each year deliver to the Government an abstract of such accounts for such year and a statement of the amount of royalty due to the Government for such year. Such accounts shall be treated as confidential by the Government, with the exception of such figures therein as it thinks it necessary to publish to the Iraq Parliament.

(14) If the royalties or any part thereof shown by such accounts to be due, or awarded by arbitration, for any year shall be unpaid for the space of three calendar months after the end of such year, or after the award of the arbitrator, whichever be later, the Government shall have the right to prohibit all export of petroleum and other products by the Company until the sum in question is paid. And if payment is not made within three months after the expiration of the aforesaid three months the Government shall have the right to terminate the Concession, and to take without payment all the property of the Company within Iraq, including the oil collected in the storage tanks and elsewhere. In the event of a dispute arising regarding the amount of royalties to be paid by the Company and this dispute being referred to arbitration, the above penalties shall not take effect, provided the Company pay into Court the amount of royalties in dispute.

(15) The Company shall if it produces sufficient petroleum in the defined area provide such refinery or refineries as may be necessary for providing the petroleum required for consumption within such area and shall quote the Government and inhabitants of Iraq specially favourable terms for petroleum and products thereof for consumption in Iraq produced within the defined area.

(It is proposed that the Company shall address a letter to the Government undertaking to supply oil for local consumption at cost plus 10%. Sassoon wishes the Company to bind itself (1) to erect a refinery as soon as the annual production amounts to say 50,000 tons; (2) not to export until the whole local demand has been met; (3) to quote slightly better terms to the Government than to individuals. Penalty under (1) to be £50 per day if work not begun within a year after said production reached, and concession to lapse, subject to three months' notice to Company, if work not begun within two years.)

(16) Any duly authorised representative of the Government shall have the right to any reasonable extent and at all reasonable times to inspect all operations carried on by the Company. The Company shall on request place at the disposal of such representative a proper

person to explain such operations and to afford such information as such representative may reasonably require. (Sassoon wants the Company to contribute say £100 per month to the cost of the inspection.)

(17) The Company shall furnish to the inhabitants of any locality within the defined area free of cost an amount of oil equivalent to that which they have been hitherto accustomed to take free of cost from such locality. Such amount shall be fixed by agreement between the Company and the Government.

(18) On the occasion of a state of emergency the Company shall use its utmost endeavour to increase the supply of petroleum and products thereof for the Government to the extent the Government shall require.

(19) Subject to any general regulations and international conventions which may from time to time be in force the Company may erect and use telegraphic telephonic and radio apparatus and connect the same with the nearest convenient point of the Government systems, provided that where such apparatus is not entirely on the Company's premises the Company shall obtain the Government's approval (which shall not be unreasonably withheld) to the plans for the same and provided also that without the previous sanction of the Government such apparatus shall not be used for messages not concerned with the Company's business.

(20) The Company may dig sink drive build construct erect lay and operate such pits shafts wells trenches excavations dams drains watercourses factories plants tanks reservoirs refineries pumping stations offices houses buildings wharves and other terminal facilities vessels railways roads ferries bridges tank and other trucks tramways pipe-lines and other erections installations and things of any kind movable or immovable whether of the nature hereinbefore mentioned or not as it may think necessary in connection with its operations hereunder, provided that where the same are not entirely on the Company's premises the Company shall obtain the Government's approval (which shall not be unreasonably withheld) to the plans for the same. The Company shall be entitled to use all canals, rivers waterways water power and ports in Iraq on payment of the charges, if any, ordinarily imposed for their like use by other industrial undertakings.

(21) The Company may occupy such lands as may be necessary for the purposes of its business, upon the following terms:—

(*a*) Non-cultivable lands belonging to the Government and not required by them for a reasonable purpose will be granted to the Company free of cost for the period of this Convention.

(*b*) Cultivable lands belonging to the Government and not required by them for a reasonable purpose will be granted to the

Company for the period of this Convention at a rent to be agreed between the Government and the Company or in default of agreement to be fixed by arbitration in manner hereinafter mentioned.

(*c*) Lands owned by private persons shall be acquired by agreement between the Company and the person concerned, and shall be registered in the name of the Company or of its nominee pending the enactment of legislation permitting a foreign company to hold lands in Iraq. The Company shall acquire the whole rights of such persons so as to give the Company a clear title to the land, whether it be *mulk* or *tapu* hold. For the purpose of this article the Government will regard the undertaking of the Company as being a work of public utility and, in the event of the Company being unable to come to agreement as to price with the persons concerned, the Government will acquire the land for the Company according to the Law for the time being in force, at the expense in all things of the Company.

(Sassoon thinks the Company's occupation of land on these terms should be restricted to the defined area.)

(22) The Company shall be entitled to carry pipe telegraph and telephone lines over under and along any lands, roads, railways or canals where such lands roads railways or canals belong to the Government without paying any compensation, and where they belong to private persons or companies on paying such compensations as may be agreed or failing agreement fixed by arbitration in manner hereinafter mentioned but without any obligation on the part of the Company to purchase the lands over under or along which such lines pass. Where such lines are not entirely over under or along the Company's premises the Company shall obtain the Government's approval (which shall not be unreasonably withheld) to the plans for the same. The Company shall repair all damage done to such roads railways and canals by the construction of such lines and furthermore the Company shall give to the said owner one calendar month's notice in writing of its intention to carry any such lines over, under or along any cultivated lands, roads, railways or canals.

(23) Nothing in this Convention shall limit the right of the Government to make and maintain throughout the defined area such roads tramways railways telegraph and telephone lines as shall be expedient and to obtain from the said defined area such stone earth and other materials as may be requisite for making or maintaining the said works and to pass at all times over and along such works; provided always that the powers reserved under this article shall be exercised in such a manner as not to interfere with the rights of the Company under this Convention.

(24) The Government or any person authorized by it in that behalf shall have full liberty to search for and get any substances

other than those the subject of this convention in upon or under the lands comprised within the defined area provided always that the rights hereby reserved shall be exercised in such a manner as not to interfere with the rights of the Company under this Convention and provided also that fair compensation shall be paid by the Government or the person so authorized, as the case may be, for all loss or damage which the Company may sustain in consequence of the exercise of the said reserved rights. In any concession which it grants for such reserved rights the Government will bind the concessionaire to pay such compensation to the Company.

(25) The Company may appropriate for any purpose connected with its business the water within the Kingdom of Iraq and may collect the same for the purposes of the Company's business but so as not to prejudice reasonable navigation or to deprive any lands, houses, or watering places for cattle of a reasonable supply of water.

(26) The Company may take away upon payment of the usual charges if any from lands or forests the property of the Government any surface soil timber clay ballast lime or building stone and similar non-metallic materials that may be necessary for its operations within the defined area.

(27) No other or higher taxes impositions duties fees or charges whether government or municipal shall be imposed upon the Company or upon its property or privileges or employees than those ordinarily imposed upon the property or privileges or employees of other industrial undertakings, nor shall any taxes impositions duties fees or charges whether government or municipal be imposed upon the underground works or underground property of the company or upon the substances granted by this convention before their removal.

(28) The Company shall be entitled to import into the Kingdom of Iraq free of all duties and fees of every sort all materials machinery plant stores and equipment (except provisions and other articles required for the personal use of its employees) which it may require in connection with its operations and to export the same before or after use and all products the subjects of this convention free of all duties and fees of every sort, provided it complies with the usual customs regulations.

(29) The employees of the Company shall so far as possible be subjects of the Government but managers engineers chemists drillers foremen mechanics and other skilled workmen clerks and domestic servants may be brought from elsewhere. The entry of all foreign personnel into Iraq shall be subject to the immigration laws for the time being in force.

(30) The Government bind themselves to take all reasonable measures to secure the carrying out of the objects of this agreement to protect the safety of the property of the Company and of its employees and agents.

(31) The Government shall not during the currency of this convention enter into grant or confirm any agreement licence or concession which may unreasonably prejudice or conflict with the rights of the Company hereunder.

(32) The Company shall be and remain a British Company registered in Great Britain and having its principal place of business within His Majesty's dominions and the Chairman shall at all times be a British subject. The memorandum and Articles of Association of the Company shall be revised to embody such provisions of this Convention as the Government may require.

(33) The Company shall be at liberty to form under the English Companies Acts one or more subsidiary companies for the working of this Convention should it deem this to be necessary. Any such subsidiary Company shall in respect of the area in which it operates enjoy all the rights and privileges granted to the Company hereunder and assume all the engagements and responsibilities herein expressed. (Sassoon thinks his Government will demand that the working company shall be registered in Iraq because of the special juridical privileges enjoyed there by companies registered in England. He even suggests that failure to form such a company should result in forfeiture of the concession.)

(34) The Company shall have the right from time to time to underlet or transfer any part or parts of its rights and obligations hereunder with respect to portions of the defined area on such terms as it may think fit. (Sassoon wants each transfer to be subject to the approval of the Iraq Government, but is willing that it should be laid down that this approval shall not be unreasonably withheld and shall not be subjected to conditions not contained in the concession.)

(35) The Company shall have the right to abandon permanently such of its own and its subsidiary companies' rights under this convention as are not at the time outstanding in any transferee other than a subsidiary company upon giving three months' notice in writing of its intentions so to do and this convention shall in respect of such rights absolutely determine on the date fixed for such determination in such notice, and the Company shall thereupon be entitled, but not obliged, to remove free of all taxes and duties all its plant buildings stores material and property of every sort provided that for a period of 3 months from the receipt of such notice the Government may purchase the same at a price equal to the replacement

value at that date less depreciation, which price shall be agreed or failing agreement settled by arbitration in manner hereinafter mentioned. After such abandonment the Government shall take the place of the Company in relation to the Company's transferee other than subsidiary companies. (Sassoon thinks that when the Company gives notice of abandonment it should give its reasons; that the Government should then have the right to refer the adequacy of the reasons to arbitration; and that if the arbitration finds the reasons inadequate the Company's property shall be forfeited.)

(36) No failure or omission by the Company to carry out or perform any of the stipulations, covenants or conditions of this Convention shall give rise to any claim or be deemed a breach of this Convention to the extent that the same arise from any of the following causes viz:—the act of God, the act of the Government of Iraq, restraint or restriction of princes, governments, peoples or authorities embargoes prohibitions insurrections pirates wars strikes or combinations or [*of*] workmen epidemics floods accidents caused by inundations or working stoppages or obstructions of railways transportation facilities or pipe-lines accidents to or breakdown of steamers lighters or other vessels or to machinery or plant eruptions landslips earthquakes fire all dangers or accidents of the seas lakes canals or rivers and the navigation or loading of steamers lighters or other vessels of whatever nature even when due to the negligence default or error in judgment of the pilot, master mariners or other servants of the ship owners or the stevedores or any other persons or any cause of *force majeure* or event not within the control of the company of whatever description whether similar to the causes hereinbefore enumerated or not; and if for any of the causes aforesaid the performance of any of the obligations or the exercise of any of the rights under this convention is delayed the period of such delay, together with such period as may be necessary for the restoration of any damage done during such period of delay, shall be added to the periods fixed by this convention. If as a result of any arbitration the Arbitrator or Arbitrators should find that there has been any breach by either party hereto of any provision of this Convention, or any failure by either party to fulfill its obligations hereunder, the Arbitrator or Arbitrators may except as hereinbefore otherwise provided award damages against the party in default.

(37) If any dispute shall arise between the Government and the Company concerning the interpretation of any of the articles of this Agreement, the same shall be referred to the arbitration of two persons, one of whom shall be chosen by each party, and of a referee who shall be chosen by the arbitrators before proceeding to arbitration. The decision of the arbitrators or in the case of a difference

of opinion between the arbitrators the decision of the referee shall be final. Such arbitration shall be held in Baghdad or London as may be agreed by the parties and in default of such agreement the place of arbitration shall be Baghdad.

(38) All notices required to be given hereunder to the Government shall be deemed to be duly given if sent by registered post to the . . . . . and all notices required to be given hereunder to the Company shall be deemed to be duly given if sent by registered post to the office in Baghdad for the time being of the Company, and every such notice whether given to the Government or the Company shall be deemed to be received one day after the date of posting.

In Witness etc.

New Articles. Sassoon wants

1. an article binding the Company to show due diligence in maintaining production.

2. an article reserving the right of the Government and its subjects to subscribe up to 20% of the total capital of the Company.

3. an article allowing the Government to nominate a director.

890g.6363 T 84/117

The Secretary of State to the President of the Standard Oil Company of New Jersey (W. C. Teagle)

Washington, *November 8, 1923.*

My Dear Mr. Teagle: I have received your letter of October 25th enclosing, for the Department's information, a copy of the draft concession submitted to you by the Managing Director of the Turkish Petroleum Company, together with a copy of your letter to Mr. Nichols, relating to the negotiations of the American group of oil companies with regard to Mesopotamia. You state that you are submitting this information in order to enable the Department to express its views with relation thereto and that should the Department have any criticism or suggestion for change relative to the Open Door phase of the matter you would appreciate receiving an expression of the Department's opinion.

During the course of the negotiations between the American Group and the European interests controlling the Turkish Petroleum Company, with regard to American participation in the development of the Mesopotamian oil fields, the Department has endeavored to support the American Group in every proper way. It has refrained, however, from giving any opinion either as to the commercial aspects

of the problem or as to the technical business questions involved, believing that such matters lay without its proper scope and that decisions as to the desirability from a commercial point of view of accepting the terms proposed must be made by the American Group in accordance with their best business judgment.

The Department, however, is glad to take this opportunity of expressing, in reply to the request of the American Group, its opinion as to the extent to which the proposals to the American Group and the terms of the draft concession are in accord with the general principles which, in its view, are applicable to the matter in hand.

The Department notes with satisfaction that it is proposed that the development of the Mesopotamian oil field is to be undertaken under the terms of a new concession properly granted by the appropriate authorities and not under the terms of the alleged concession of 1914 to the Turkish Petroleum Company, the validity of which this Department has consistently contested. It also understands that the Turkish Petroleum Company, which is to seek the new concession, is to be reorganized so as to provide for substantially equal participation by British, Dutch, French and American interests (the American Group to include those companies which have expressed an interest in this project), and that this reorganized company will establish a system of subleases under which companies other than the Turkish Petroleum Company will be given the opportunity to develop all but a small portion of the territory subject to the proposed concession, so that while these other interests may not be in the first instance beneficiaries of the proposed concession they may, as lessees of the *concessionnaire*, enjoy substantially equal rights in the development of Mesopotamian oil resources. In this connection I desire to say further that the Department has observed the statement in the telegram of October 25th to Mr. Nichols (a copy of which was enclosed with your letter under acknowledgment) that a possible interpretation of certain articles of the proposed concession might require that sublessees be British companies. The Department notes with approval the stand taken in the above-mentioned telegram that American interests should have full opportunity to qualify as sublessees on an equal footing with other companies, and, in view of the basis on which it is understood that negotiations have proceeded and are to proceed, assumes that such opportunity will also be afforded to other sublessees regardless of nationality.

No comment however has apparently been made by the American Group with regard to the provision in Article 33 of the proposed concession for the formation of subsidiary companies under the English Companies Acts. While this would appear to be largely

a question of business organization for the consideration of the group, the Department would regret any action tending to impair the international character of the enterprise which might result from the restrictive character of the phrase "under the English Companies Acts" in the Article in question.

The Department has noted the statement in the letter to Mr. Nichols that careful consideration should be given to the question of making specific reference in the draft concession to the plan of subleasing. While the Department appreciates that in a commercial convention of the character contemplated it might not be practicable to include the plan which the Companies have agreed upon in this respect, it is felt that it would be desirable for the American and foreign companies concerned to express, in the concession itself, their intention to accord appropriate recognition to the principle of equality of commercial opportunity.

While the proposed concession would appear to be in technical form an exclusive concession for the benefit of the Turkish Petroleum Company, nevertheless in view of the fact that this Company is to be reorganized so as to provide for the participation of the representative oil interests of four countries and the fact that only a small portion of the area of Mesopotamia is to be reserved for the Company itself, the balance to be made available for development by sublessees of the Company, regardless of nationality or affiliation, under fair and equitable conditions, it is the Department's opinion that satisfactory recognition is under the circumstances accorded the principle that the territory in question is not to be exploited for the exclusive advantage of any one nation, and that American interests are not to be subject to injurious discrimination.

If, therefore, the American Group is representative of all the American oil companies desiring to participate (which the Department understands to be the case), if it is satisfied with the terms of its participation and if it desires to proceed with the matter on the basis you have outlined, this Department offers no objection to the adoption of a plan which if realized would be calculated to be of advantage to American economic interests, and which takes into account the principle for which this Government has stood in relation to the development of the natural resources of Mesopotamia.

On the basis of the principles outlined above, the Department will be prepared to give appropriate Diplomatic support to the American interests concerned and requests that you bring this letter to the attention of the participating American companies.

I am [etc.] CHARLES E. HUGHES

890g.6363 T 84/123

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Secretary of State

NEW YORK, *December 10, 1923.*
[Received December 11.]

MY DEAR MR. SECRETARY: With reference to my letter to the Department of October 25, 1923, with which was enclosed a copy of my proposed letter to Mr. H. E. Nichols of the same date,[50] and also referring to my letter to the Department of the 9th ultimo,[50] all with reference to the draft convention now under discussion between the Iraq Government and the Turkish Petroleum Company, Limited, I am now in receipt of a copy of the draft convention in its present form, called "draft of November 1923", which brings the draft up to November 16, 1923. It should be added that all of the modifications in this November draft have been communicated to Mr. Keeling, at Bagdad, but they have not been accepted by the Iraq Government. I enclose a copy of the November draft.[50]

After receipt of the Department's letter of the 8th ultimo in comment upon my letter of the 25th October, we communicated the Department's comment relative to Article 33 to Mr. Nichols, with the result that we are now advised by Mr. Nichols by telegraph that, at our request, the words "under English Companies Acts" have been omitted from Article 33. This frees the Turkish Petroleum Company, Limited, from the stated obligation to organize its subsidiaries under British law.

Referring to the phraseology of Article 34, Mr. Nichols tentatively accepted the phraseology which we proposed in our letter of October 25th, addressed to him. He, however, urged that the amendment was not required in order to insure that transferees of portions of the defined area would not necessarily have to be of British nationality. We are now in receipt of a telegram from Mr. Nichols stating that Mr. Keeling maintains that the general prospects of reaching a favorable agreement with the Iraq Government are most seriously prejudiced unless the principal amendment to Article 34 is withdrawn. The amendment to which Mr. Nichols refers is the one stated in our letter to him of October 25th, under Article 34, in the phrase, "to any person, firm, or corporation, irrespective of nationality". We are further advised by the Anglo Persian Oil Co., Limited, which is Mr. Nichols in this instance, that it accepts the legal view that under Article 34, with this amendment deleted, the Turkish Petroleum Company would be permitted to make transfers to persons, firms or corporations of any nation-

[50] Not printed.

ality, and he also points out the improbability of eventual dispute regarding nationality, since the Iraq Government would thereby prejudice its own nationals, is [*if?*] transferees must be of British nationality. Finally, Mr. Nichols strongly urges acceptance of this view, as otherwise an impasse in Iraq seems inevitable. We are asked to telegraph promptly our views.

It is under this Article 34 that the operation of the Open Door Plan is possible, and we are therefore writing the Department in respect to the phraseology of Article 34 in order that we may have the benefit of, and be guided by, the views of the Department.

We beg to point out that under Article 32 the Turkish Petroleum Co., Limited, agrees to be, and remain, a British company; that under Article 34, even eliminating the clause regarding nationality, it is provided that the Turkish Petroleum Co., Limited, shall have the right to underlet or transfer *any part or parts of its rights and obligations* with respect to portions of the defined area on such terms as it may think fit, and that, therefore, if that company does not assign its obligation to be and remain a British company, it would seem to follow that the transferee would not have to be a British company.

If, therefore, it accords with the Department's views, we are disposed to advise Mr. Nichols that the clause in question above quoted may be omitted.

Inasmuch as we are asked for telegraphic advice, we shall appreciate having as prompt consideration of this matter at the hands of the Department as possible.

Respectfully yours,

W. C. Teagle

890g.6363 T 84/124 : Telegram

The Consul at Bagdad (Randolph) to the Secretary of State

Bagdad, *December 15, 1923—noon.*
[Received December 16—5 : 25 a.m.]

In reply to Department's telegram December 13, 6 p.m.[51] Petroleum negotiations were progressing, agreement reached on all except a few [un]important matters when the fall of the old Cabinet November 16th necessitated commencing negotiations from the beginning with new Cabinet which has formed committee of three (Ministers Justice, Interior, and Works) to negotiate with Keeling and first meeting will be held tomorrow.

Randolph

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[51] Not printed.

890g.6363 T 84/123

The Secretary of State to the President of the Standard Oil Company of New Jersey (W. C. Teagle)

WASHINGTON, *December 18, 1923.*

SIR: I have received your letter of December 10, 1923, transmitting a copy of the draft concession (as of November 16, 1923)[52] now under discussion between the Turkish Petroleum Company and the Iraq Government and I have given careful consideration to the question which you have raised.

Your letter does not indicate the ground for possible objection on the part of the Iraq Government to the amendment suggested by the American Group to Article 34 and it is not entirely clear to the Department why this amendment should occasion serious difficulty in the pending negotiations in Mesopotamia.

The Department would not desire to insist upon any particular phraseology provided the substantial principles for which it has stood are fully safeguarded; namely that the oil resources of Mesopotamia should not be monopolized and that American interests should not be subjected to injurious discrimination. This principle under the circumstances could not be given practical application if the Turkish Petroleum Company did not have the authority to sublease oil lands without implied or actual restrictions as to the nationality of the lessees or, if having that authority, it did not exercise it.

In the opinion of the Department therefore it is highly important that every precaution be taken against future misunderstanding as to the authority and purpose of the Turkish Petroleum Company to carry out the subleasing plan along the lines heretofore discussed between the American group and representatives of the Turkish Petroleum Company and communicated by you to the Department. The inability or failure of the Company to put the proposed system into operation would materially alter the understanding on which the Department's recent correspondence with the American group has been based. It is suggested therefore that the American group should obtain assurances and should satisfy itself that, in case the proposed amendment to Article 34 is not included, the operation of the subleasing system will not be defeated by any provisions of British or Iraq law or by any collateral understanding between the Turkish Petroleum Company and the Iraq Government.

I am [etc.] CHARLES E. HUGHES

[52] Not printed.

890g.6363 T 84/125

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Secretary of State

NEW YORK, *December 19, 1923.*
[Received December 21.]

MY DEAR MR. SECRETARY: In Mr. Teagle's absence, this will acknowledge the receipt of your favor of the 18th instant, file NE 890g.6363 T 84/123, with reference to Article 34 of the draft convention (as of November 16, 1923) now under discussion between the Turkish Petroleum Company and the Iraq Government.

We beg to thank the Department for its helpful consideration of the matter of our suggested amendment to Article 34 relative to nationality, and the Turkish Petroleum Company's request that it be deleted.

For the Department's information, we beg to enclose a copy of the cablegram which we are sending to Mr. H. E. Nichols today, as Managing Director of the Turkish Petroleum Company, which we trust takes note of your views and suggestions. I read the cablegram to Mr. Dulles over the telephone for his criticism before sending it.

Respectfully yours,

GUY WELLMAN

[Enclosure—Telegram]

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Managing Director of the Turkish Petroleum Company (H. E. Nichols)

NEW YORK, *December 19, 1923—5:10 p.m.*

Referring to your telegrams 8th, 13th and 14th relative to Article 34 of Draft of Convention of November 16th, 1923, we accept your urgent request that our amendment Article 34 relative nationality be omitted but in view of our relation to open door policy of State Department and resultant necessity to fully protect same we accept on four conditions namely

First, that operation of subleasing system will not be defeated by provisions of British or Iraq Government law or by any collateral understanding

Second, that amendment has not been submitted to Iraq Government and withdrawn

Third, that Turkish Petroleum Company agrees to carry out Open Door plan and that Iraq Government shall understand during negotiation that Article 34 without our amendment enables Turkish

Petroleum Company to make transfers to persons firms or corporations irrespective of nationality

Fourth, that your Foreign Office and Turkish Petroleum Company now give to American Group their respective assurances that foregoing conditions shall obtain.

W. C. Teagle

DISCRIMINATION IN INDIA AGAINST AMERICAN OIL COMPANIES[53]

811.6363/94

The British Ambassador (Geddes) to the Secretary of State

No. 216

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour to invite his attention to a report which appears to have been submitted on the 12th February, 1923, by the Federal Trade Commission to the Senate of the United States in response to Senate Resolution 311, Sixty-Seventh Congress, Second session. Although the reply of the Federal Trade Commission to this Resolution has formed the subject of newspaper comment on several occasions in the intervening month, it was not until two days ago that the British Embassy succeeded in obtaining multigraph copies of the report. It deals with foreign ownership in the American petroleum industry and "outlines the situation with respect to discrimination of foreign governments against citizens of this country in the acquisition and development of petroleum producing properties in foreign lands".

Sir Auckland Geddes has not yet had an opportunity of having the report examined in detail so far as it relates to the laws, regulations and practices governing the extraction of petroleum in the countries of the British Empire, but he cannot refrain from an immediate expression of his great astonishment at finding that the Federal Trade Commission has based upon certain spurious and fraudulent documents the erroneous suggestion that American nationals are, or have been, denied privileges granted to other aliens in connection with the development of the oil-fields of Burma.

The documents in question purport to contain extracts from a proclamation dated the 24th September, 1884, countersigned "Salisbury, Secretary of State for India" and from an agreement dated 23rd August, 1885 between the Secretary of State for India and the Burma Oil Company, also signed "Salisbury, Secretary of State for India".

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[53] Continued from *Foreign Relations*, 1922, vol. II, pp. 352–358.

Considerable correspondence has already taken place between the Department of State and the British Embassy concerning them. They were originally referred to in Senate Document No. 272, 66th Congress, 2nd Session, embodying a report to the Senate by the President of the United States, dated May 17th, 1920, on petroleum restrictions in foreign countries. Shortly after the presentation of that report, the Department of State had reason to doubt their genuineness. The American Embassy in London made enquiry regarding them and Mr. Hughes, in his Note of September 23rd, 1921 [54] to His Majesty's Ambassador stated that "it seems clear that their authenticity is open to serious question". In a Memorandum, No. 863, handed to the Secretary of State on November 15th, 1921,[55] Sir Auckland Geddes stated that, in the judgment of the British India Office, the documents in question were self-evident forgeries. He pointed out that the late Marquess of Salisbury was not, in fact, Secretary of State for India in 1884 and 1885, and that the wording of the documents was alone sufficient to indicate their spurious character. He also gave the Secretary of State an opportunity to repudiate them and invited him to disclose to His Majesty's Government the source from which these fabricated documents had been obtained. Mr. Hughes, in his reply dated the 10th December, 1921,[56] adopted neither of these courses, but explained at length the circumstances in which the Department of State had been misled into placing credence in the documents, and added that further authentic official information regarding the oil laws in force with regard to Burma was desirable before any definite steps were taken to correct any public misapprehension arising from the reliance placed on the documents in Senate document No. 272, "since any published statement at this date relating merely to the accuracy of the citations or to the authenticity of the particular documents cited would not only fail to do full justice to the policy of the British Government, but might even furnish an occasion for renewed inferences of a mistaken character".

His Majesty's Ambassador had the honour again to address the Secretary of State on the subject of these forged documents and in his Memorandum, No. 380, dated 18th May, 1922,[57] handed by him personally to Mr. Hughes on the 25th of that month, he informed the Secretary of State that the regulations governing the exploitation of oil in India and Burma were being collected for communication to the United States Government, but that, in the opinion of His Majesty's Government, the request advanced by the former for the communication of these regulations should not be allowed any longer

[54] Not printed.
[55] *Foreign Relations*, 1921, vol. II, p. 77.
[56] *Ibid.*, p. 78.
[57] *Ibid.*, 1922, vol. II, p. 356.

to delay the repudiation of documents which "by their form and phraseology are clearly the fabrication of an ignorant forger". The Secretary of State, on June 10th, 1922,[58] while indicating his entire willingness to accept the statement of the British Government and to make announcement to the effect that the documents referred to were spurious, pointed out that the significance of the documents lay merely in the support they gave to the statement that American oil companies are expressly excluded from doing business in Burma.

Although the United States Government did not publicly repudiate the documents, whose true character as forgeries had been shown and accepted by Mr. Hughes, His Majesty's Ambassador was surely justified in believing that after their false and fraudulent nature had been so clearly and repeatedly pointed out to the United States Government they would not again be used in any way, least of all as a basis for any statement whatever relating to British oil policies made by a responsible agency of the American Administration.

It is to be noted, moreover, that this second unfortunate reliance by responsible American officials upon these fraudulent documents goes even farther, apparently, in the inferences drawn from them than did Senate document No. 272. The Federal Trade Commission has used them, and, notwithstanding their impossible and illiterate wording, has even quoted them as if they were authentic, in sole evidence of inequality of treatment as between American nationals and the nationals of other non-British countries.

In the circumstances, His Majesty's Ambassador feels confident that the Secretary of State will now desire publicly to repudiate them as known forgeries.

WASHINGTON, *March 15, 1923.*

811.6363/94

The Secretary of State to the British Ambassador (Geddes)

MEMORANDUM

The Secretary of State presents his compliments to His Excellency, the Ambassador of Great Britain, and has the honor to acknowledge the receipt of a memorandum dated March 15, 1923, in which the Ambassador refers to the report, under date of February 12, 1923, submitted by the Federal Trade Commission to the Senate of the United States in response to Senate Resolution 311, 67th Congress, 2nd Session, and to the use in that report of certain documents which purport to contain extracts from a proclamation dated September 24,

[58] *Foreign Relations*, 1922, vol. II, p. 357.

1884, and from an agreement dated August 23, 1885, between the Secretary of State for India and the Burma Oil Company, in relation to the development of the oil fields of Burma. The Ambassador directs attention to the previous correspondence between the British Embassy and the Department of State concerning these documents; and to the fact that they had been denounced by the British Government as spurious. The Ambassador affirms his confidence that the Secretary of State will now desire to repudiate the documents as known forgeries.

The Secretary of State begs leave to inform the British Ambassador, confirming what he has already stated to the Ambassador orally, that the Department of State had no part in the preparation of the report of the Federal Trade Commission to which reference is made in the British memorandum and was not aware prior to the receipt of the memorandum that it contained references to the documents which the British Government had stated to be spurious. Upon receipt of the British Ambassador's memorandum the Secretary of State took up the matter with the Federal Trade Commission, with the result that all reference to the documents in question has been deleted from the Commission's report and will not appear in the report as published. The printing of the report, it may be added, has not yet been completed, and the "multigraph copies" to which the Ambassador's memorandum refers, were copies not of the report proper but of a condensed statement.

The Secretary of State has taken note of the statement of the British Ambassador that he feels confident that the Secretary of State will now desire publicly to repudiate the documents as known forgeries. In reply, the Secretary of State begs to say that he has addressed an identic communication to the Department of the Interior, to the Department of Commerce and to the Federal Trade Commission, the agencies of the Government of the United States which deal with matters to which the documents in question may be deemed to be most pertinent, advising them respectively that the documents in question have been denounced by the British Government as spurious and that this statement as to their character is accepted by the Government of the United States. The Secretary of State is making public the text of these communications, a copy of which is enclosed with this memorandum.

As the British Ambassador in his memorandum has deemed it appropriate to review the correspondence between the Department of State and the British Embassy concerning these documents, the Secretary of State feels that he should refer to the steps taken and to the attitude of this Government which this correspondence makes clear. It is understood that the documents in question were first

described in a report of the Bureau of Mines to the Secretary of the Interior in May, 1919. This report has not been published but reference was made to it in a speech in the Senate of the United States in July, 1919. In a note dated November 6, 1919, the British Embassy called attention to these remarks, which were stated to represent inaccurately the policy of Great Britain with respect to petroleum, but while it would appear from the Embassy's note that the Embassy had had access to the report of the Bureau of Mines, no reference was made to the statement in that report regarding Burma although specific exception was taken to other statements.

The report which was printed subsequently in Senate Document No. 272, 66th Congress, 2nd Session, of May 17, 1920, was, it is believed, the first published statement wherein there was specific reference to the documents in question. This report was published in May, 1920. The question of the authenticity of these documents appears to have been raised for the first time in the summer of 1921.

In a note addressed to the British Ambassador by the Secretary of State on September 23, 1921,[59] it was stated that the American Embassy in London had been instructed some weeks before to make inquiry regarding these documents and that, although the Secretary of State was not in possession of definite information, it seemed clear that their authenticity was open to serious question. The Secretary of State then requested the British Ambassador to supply him "with an exact transcript of the laws, ordinances or regulations which are now or have recently been in force in India and especially in Burma bearing on the question of participation by aliens in petroleum development, to the end that any inadequacy or inaccuracy which may be found in the statements under discussion may be speedily corrected." The Secretary of State furthermore pointed out in this note that, in a memorandum on the petroleum situation published by the British Government in 1921, of which a copy was transmitted to the Secretary of State by the British Embassy on July 27, 1921,[59] the statement was made in relation to India that "prospecting or mining leases have been, in practice, granted only to British subjects or to companies controlled by British subjects."

The British Ambassador replied in a memorandum of November 15, 1921, and, referring to the inquiry made in London on behalf of the American Embassy with respect to the authenticity of the documents in question, said that the India Office, to which the matter had been referred, had stated that in their judgment the documents in question were self-evident forgeries. The British Ambassador then

[59] Not printed.

said that he had been instructed to bring the matter to the notice of the Secretary of State and to suggest the propriety of the publication of an acknowledgment that the statement in Senate Document No. 272, 66th Congress, 2nd Session, relating to the documents in question, was erroneously made and that "it had been discovered to be entirely devoid of foundation."

The Secretary of State, replying in a memorandum of December 10, 1921, reviewed the circumstances, and pointed out that it was "not yet entirely clear whether it is to be understood that the statement as originally made by the Director of the Bureau of Mines was wholly erroneous or was substantially or in part correct". It appeared that doubt upon this point seemed to be the more justified because of what was stated in the official memorandum by the British Government quoted above with respect to prospecting or mining leases in India. The Secretary of State concluded with the following statement: "It has been felt appropriate to make these requests for further information, since it would seem that any published statement at this date relating merely to the accuracy of the citations or to the authenticity of the particular documents cited would not only fail to do full justice to the policy of the British Government, but might even furnish an occasion for renewed inferences of a mistaken character."

The British Ambassador made reply to this in a memorandum dated May 18, 1922, saying that His Majesty's Government had informed him "that the regulations governing the exploitation of oil in India and Burma are being collected for communication to the United States Government in compliance with their request." The Ambassador added, however, that His Majesty's Government did not consider that the request advanced by the United States Government for the communication of these regulations should be allowed any longer to delay the repudiation of the documents contained in Senate Document No. 272, 66th Congress, 2nd Session, to which reference had been made in the prior correspondence.

In reply the Secretary of State, in a memorandum of June 10, 1922, assured the British Ambassador of his entire willingness to issue a statement for the purpose of correcting any misapprehension which might have arisen from reference to documents which the British Government declared not to be genuine. The Secretary of State said, however, that it was to be noted "that the significance of the documents, to which reference was made, lay merely in the support of the statement that American oil companies were expressly excluded from doing business in Burma." It was stated that it was the understanding of the Secretary of State that this was still the

fact; that if this was a misunderstanding and it was "the intention of the British Government, in desiring the correction, to call attention to the fact that no exclusion of American nationals or companies in India was intended, it would be particularly gratifying to the Secretary of State to be able to state that the regulations in practice in India have been, or that they may be so modified as to accord to American nationals and companies the same opportunity and treatment as those enjoyed by British nationals and companies." The memorandum concluded as follows: "The Secretary of State, while entirely willing to accept the statement of the British Government, and to make announcement to the effect that the documents above referred to are spurious, would not be able to make such an announcement with the implication that no exclusion of American nationals or companies in India is intended, unless the British Government is prepared to give an assurance to that effect; otherwise the repudiation of the documents must be accompanied with a statement, according to the information of the Secretary of State, that in fact American oil companies are excluded from doing business in Burma."

The Secretary of State begs leave to point out that no further statement on the subject was received from the British Ambassador until the presentation of the Ambassador's memorandum of March 15, 1923. The Secretary of State feels that he should also call attention to the fact that although the British Ambassador notified him in his memorandum of May 18, 1922, that the regulations governing the exploitation of oil in India and Burma were being collected for communication to the United States Government, the Secretary of State has not yet received this information.

It is hardly necessary to add that the Secretary of State does not wish that the repudiated documents be used in any way by this Government. As already stated, as soon as the fact of their inclusion in the report of the Federal Trade Commission was brought to his attention the Secretary of State at once took steps to have them deleted from that report. While he had hoped before this to receive copies of the actual regulations for India so that their substance could be appropriately set forth in the contemplated statement on the subject, the Secretary of State has decided not to wait longer for this information but to communicate with the other departments of government as above stated and to make public announcement accordingly. However, in the absence of the information sought from the British Government, the Secretary of State feels obliged in making these communications and this announcement to say that while repudiating the citations in question, he believes the con-

clusions as to the British practice in India, as stated in the second paragraph above quoted from Senate Document No. 272, 66th Congress, 2nd Session, to be substantially correct.

CHARLES E. HUGHES

WASHINGTON, *March 24, 1923.*

WITHDRAWAL OF BRITISH OPPOSITION TO THE GRANTING OF PORTUGUESE CONCESSIONS TO AMERICAN COMPANIES FOR LANDING SUBMARINE CABLES IN THE AZORES[61]

811.7353b W 52/50

The Secretary of State to the Ambassador in Great Britain (Harvey)

No. 799 WASHINGTON, *February 3, 1923.*

SIR: The Department received the Embassy's despatch No. 1839 of November 17, 1922,[62] with which was transmitted a copy of the Embassy's note to the Foreign Office, dated October 18, 1922, and of the reply of the Foreign Office, dated November 14, 1922, in regard to the opposition of British cable companies and His Majesty's Government to the applications of American cable companies for concessions to land and operate cables in the Azores.

The Foreign Office observes in the second paragraph of its note that the license to land at Miami Beach the cable extending to Barbados was granted only after the Western Telegraph Company had surrendered valuable rights in Brazil, in accordance with an arrangement by which All America Cables, Incorporated, was to abandon similar rights in Colombia, Ecuador and Peru, and states that the exclusive rights of All America Cables, Incorporated, in Colombia have not yet been waived with the effectiveness on which the United States insisted that the Western Telegraph Company waive its rights in the Argentine and Uruguay. The Foreign Office observes further that the Miami transaction should have been complete in itself; that the granting of the license for the Miami–Barbados cable can scarcely be regarded as giving American cable companies a claim to further consideration on the part of His Majesty's Government; and that in the circumstances His Majesty's Government would be failing in their duty if they encouraged any further diversion of traffic from the lines of the Western Telegraph Company to American cable companies.

In telegram No. 264 of June 29, 6 p.m., 1922,[63] the Embassy reported that the Foreign Office had stated that it was fully cogni-

[61] For previous correspondence, see *Foreign Relations*, 1922, vol. II, pp. 359 ff.
[62] *Ibid.*, p. 379.
[63] *Ibid.*, p. 360.

zant of the activities of the British Minister at Lisbon in opposition to the applications of American cable companies for concessions to land and operate cables at the Azores, which British companies alleged would subject them to harmful competition. The Embassy was further informed at that time that the attitude of the British Government regarding the matter would likely be maintained as long as the United States withheld a license for the Miami–Barbados cable. To this the Department replied by its telegram No. 192 of July 1, 1 p.m.,[64] that it perceived no relation between the efforts of American cable companies to obtain landing privileges in the Azores and the application of the Western Union Telegraph Company to land and operate a cable at Miami. In telegram No. 270 of July 3, 6 p.m.,[65] the Embassy reported further statements by the Foreign Office indicating that the attitude of the United States toward the Miami–Barbados cable was a large factor in determining the attitude of the British Government towards applications of American cable companies for concessions at the Azores. In a telegram No. 210, of July 17, 4 p.m.,[65] to the Embassy the Department stated the policy which the United States was observing in withholding a license for the Miami–Barbados cable and explained the delay in granting the license. In the Embassy's No. 301 of July 18, 6 p.m.,[66] it was stated that the British Postal authorities were not inclined to go out of their way to assist in promoting competition with the British cable companies between Europe and South America so long as the United States withheld permission for the operation of the Miami–Barbados cable. The Foreign Office note of August 18,[67] a copy of which was transmitted with the Embassy's No. 1631 of August 19,[68] dealt almost entirely with the subject of the delay on the part of the United States Government in granting the license for the Miami–Barbados cable. In view of the prominence which the British authorities gave to the matter of the Miami–Barbados cable in its discussion of the applications of American companies for concessions in the Azores, as indicated by the foregoing digest of correspondence, it is surprising that they should now deem it pertinent to make the observation that the Miami transaction should be regarded as complete in itself and without bearing on the attitude of His Majesty's Government toward concessions in the Azores. However, the Government of the United States concurs in the view that the two matters are separate and distinct. The Department so expressed itself on sev-

[64] *Foreign Relations*, 1922, vol. II, p. 361.
[65] *Ibid.*, p. 362.
[66] *Ibid.*, p. 363.
[67] *Ibid.*, p. 373.
[68] *Ibid.*, p. 369.

eral occasions in the course of the discussion between the two Governments. The United States perceives no reason for having burdened the correspondence regarding the applications for concessions in the Azores with this irrelevant matter. It is noted, however, that notwithstanding the intimation in the Foreign Office note that the Miami-Barbados incident was irrelevant to the applications of American companies for concessions at the Azores, a question is raised in the note of November 14 as to the waiver by All America Cables, Incorporated, of exclusive rights which that company possessed in Colombia, the surrender of which was required by the plan of mutual waiver of exclusive privileges by All America Cables, Incorporated, and the Western Telegraph Company, described in the Department's note No. 746 of December 6, 1922.[69]

Inasmuch as the Foreign Office now seems to regard the Miami-Barbados incident and the proceedings relating to it to be irrelevant to applications for concessions at the Azores, no useful purpose would seem to be served by raising or discussing any question regarding the position of All America Cables, Incorporated, in Colombia. However, since the Foreign Office has seen fit to raise the question, it is deemed desirable to discuss it to avert misunderstanding of omission to do so.

On January 30, 1922, the Board of Directors of All America Cables, Incorporated, adopted a resolution, which reads as follows:

"Whereas, the All America Cables, Incorporated, enjoys or claims certain preferential or exclusive rights of entry, connection or operation of submarine cables in Colombia, Ecuador, and Peru; Whereas, the Western Telegraph Company, Limited, enjoys or claims certain preferential or exclusive rights of entry, connection, or operation of submarine cables in the Argentine Republic, Brazil and Uruguay; Whereas, it has been arranged that the All America Cables, Incorporated, and the Western Telegraph Company, Limited, shall renounce all such preferential or exclusive rights; Now therefore, be it resolved that the All America Cables, Incorporated, agrees to renounce, waive, relinquish and surrender, in favor of American and British cable companies only, any preferential or exclusive rights of entry, connection, or operation of submarine cables now enjoyed or claimed by it in Colombia, Ecuador and Peru, or elsewhere in South America. However, the All America Cables, Incorporated, does not give up its rights of entry, connection or operation of submarine cables, but gives up only the preferential or exclusive features of such rights in favor of American and British companies. *Provided*, that this renunciation, waiver, relinquishment, and surrender shall become effective upon the presentation to the Department of State of the United States, in behalf of Western Telegraph Company, Limited, of the corresponding resolution, renouncing, waiving and surrendering any exclusive rights of a similar character which

[69] *Ibid.*, p. 383.

it enjoys or claims in the Argentine Republic, Brazil and Uruguay, or elsewhere in South America, and upon the acquiescence in the renunciation, waiver, relinquishment and surrender of the All America Cables, Incorporated, by the Governments of Colombia, Ecuador and Peru, and the acquiescence in the renunciation, waiver, relinquishment and surrender of the Western Telegraph Company, Limited, of the Governments of the Argentine Republic, Brazil and Uruguay.

"And be it further resolved, that a copy of this resolution shall be transmitted to the Department of State at Washington and to the Governments of Colombia, Ecuador and Peru."

This resolution which was similar to one adopted by the Board of Directors of the Western Telegraph Company was duly presented to the Government of Colombia with a petition that the Government consent to the waiver which All America Cables, Incorporated, undertook to make by its resolution of January 30. It will be noted that by their terms the waivers were to become effective upon acquiescence of all the Governments concerned. On March 3, 1922, a resolution was issued by the Ministry of Government of Colombia, a translation of which reads as follows:

"Ministry of Government—Section 2—National Telephones and Telegraphs—Bogota, March 3, 1922 . . .[71] Be It Resolved: The Government of Colombia finds no legal impediment to the renunciation by the All America Cables, Incorporated, which is the subject of the resolution of the 30th of last January, of the company mentioned, and consequently, the latter may make the renunciation referred to in the petition, in favor of American and British cable companies; it being thoroughly understood that, according to the contract in force, Article I of which is copied above, the latter terminates the 25th day of August, 1924. It is hereby ordered that the above be communicated to the interested party and that notice thereof be given to His Excellency the Minister of the United States of America, as is requested. (signed) The Minister, V. M. Salazar."

The Government of the United States considers that this action on the part of the Colombian Government constituted acquiescence, within the terms of the resolution of the Board of Directors of All America Cables and the Western Telegraph Company, in the action of All America Cables, Incorporated, in waiving its exclusive privileges in Colombia. The Government of the United States has no doubt that the exclusive privileges of All America Cables, Incorporated, in Colombia, Ecuador and Peru, have been as effectively waived in favor of American and British cable companies as the exclusive privileges asserted by the Western Telegraph Company in the Argentine Republic, Brazil and Uruguay have been waived. The action of the United States in granting a license to the Western

[71] Omission indicated in original instruction.

Union Telegraph Company for its Miami–Barbados cable was predicated on the effective waiver by both companies in favor of American and British cable companies of their exclusive rights in South America and on the acquiescence in those waivers by the Governments concerned. The action of the Colombian Government with respect to the waiver of All America Cables, Incorporated, was taken on March 3, 1922, and although more than five months elapsed before all the Governments concerned had acquiesced, no question was raised by any of the interested parties as to the efficacy of the waiver of All America Cables, Incorporated. The note of the Foreign Office of November 14 is the first intimation which has come to the attention of the United States that the efficacy of the action of All America Cables, Incorporated, to surrender its exclusive privileges in Colombia, Ecuador or Peru was questioned in any quarter. The attitude of the Government of the United States with respect to the waiver by the Western Telegraph Company of its exclusive rights in the Argentine Republic was fully explained in the Department's No. 746 of December 6, 1922, to the Embassy and need not be discussed here. The United States did not at any time after the presentation of the waiver by a representative of the Western Telegraph Company to the Uruguayan Government raise any question as to the effectiveness of the waiver of the Western Telegraph Company in Uruguay. The United States is surprised that any question should be raised by the Foreign Office as to the sufficiency of the action of All America Cables and considers that the intimation in the note of the Foreign Office that the United States was more insistent that the waivers of the Western Telegraph Company be effective than it was that the waivers of All America Cables be effective is unwarranted.

With respect to the observations of the Foreign Office that the granting of a license for the Miami-Barbados cable gives American companies no claim to consideration on the part of His Majesty's Government, and that His Majesty's Government would fail in their duty if it encouraged any further diversion of traffic from the lines of the Western Telegraph Company to American companies, it may be answered that neither the United States nor the American companies have asked favors of His Majesty's Government in this matter, but have merely urged that it abandon its unwarranted opposition to the legitimate efforts of the American companies to obtain the desired concessions from the Portuguese Government.

Although it is intimated in the second paragraph of the note of the Foreign Office that the action of the Government of the United States in granting a license for the Miami-Barbados cable has no bearing on the attitude of the British Government toward the applica-

tions of American cable companies for concessions in the Azores, reference is made in the third paragraph of the note to the seventh paragraph of the note of the Foreign Office of August 18 and the view is taken that since the United States obtained in the adjustment of the Miami-Barbados incident a recognition of the principle to which it adhered, it would be equitable that the United States accept the views of His Majesty's Government as a condition to the withdrawal of the opposition of His Majesty's Government to applications of American companies for concessions at the Azores.

The seventh paragraph of the note of August 18 was, it is believed, sufficiently answered by the Department's No. 746 of December 6, 1922. As stated by the Foreign Office in the second paragraph of its note of November 14, the Miami-Barbados affair was a transaction in itself entirely separate from the efforts of American cable companies to obtain concessions at the Azores, and there would seem to be no occasion for joining the two subjects in the correspondence between the two Governments. When it is considered that the principle which the Foreign Office states was recognized in the Miami-Barbados transaction was applied by the United States to the granting of a license for the landing and operation of cables in the territory of the United States over which the United States has exclusive jurisdiction, and that the subject of this correspondence is the attitude of His Majesty's Government toward applications for concessions to land and operate cables in Portuguese territory, the irrelevancy of the Miami-Barbados incident in any discussion of the projects at the Azores will be obvious.

In the fourth paragraph of its note the Foreign Office proposes, apparently for the purpose of effectuating the suggestion made in the third paragraph, namely, that since the United States obtained the recognition of the principle for which it was contending in the Miami-Barbados matter, it would be equitable that the United States accept the views of His Majesty's Government concerning the Azores projects, that the American and British cable companies be permitted to enter into an arrangement without administrative restrictions in accordance with which the cable of the Western Telegraph Company should be recognized as the normal route for unordered traffic from Europe to South America, and messages ordered to be sent over American cables would be forwarded that way. The United States does not concur in the view of the Foreign Office that it would be equitable to place American companies and British companies in unequal positions in the Azores which the proposal of the Foreign Office seems to entail. The United States does not see its way to participate in any arrangement which contemplates that the Portuguese Government is to grant to British companies concessions

which contain no restrictions as to traffic which they are to be permitted to carry, and to American companies concessions which contain restrictions as to traffic in which they are to be permitted to participate. The United States would be unwilling to enter into such an arrangement because obviously the United States and His Majesty's Government are not in a position to make an agreement as to the character of concessions which the Portuguese Government is to grant for the landing and operation of cables in Portuguese territory and for the further reason that the proposed arrangement would place American companies in a less advantageous position than British companies would occupy.

His Majesty's Government is aware that the Government of the United States favors the widest possible development of international cable facilities, the employment of the most modern, approved equipment, and the establishment of as low rates as can be maintained consistently with efficient service and just and reasonable return on the capital invested. The United States supports and encourages American cable companies in extending their systems and providing the best possible facilities and service. It is represented in the Foreign Office note that lines of the Western Telegraph Company afford a more direct and shorter route of traffic from Europe to South America than could be provided over American cables, and that the proposal made would not prejudice the interests of American companies. If for these reasons the lines of the Western Telegraph Company are to be regarded as the normal route from Europe to South America, it would seem that the Western Telegraph Company would enjoy a natural advantage over any American company in competing for traffic from Europe to South America. The Western Telegraph Company would, therefore, have no reason to fear competition by American companies unless the latter afforded better service or lower rates than the British companies maintained. The Government of the United States considers that if American cable companies are able to establish a more efficient service or better rates than their British competitors maintain, they, and those who employ cables in the transaction of their business, are entitled to the benefits of their enterprise, and should not be deprived of them by artificial restrictions such as His Majesty's Government proposes to place on American companies. Acquiescence in a proposal for restrictions on American cable companies, placing them in a position less advantageous than British companies occupy, would be inconsistent with the practice of the United States to encourage the development of communication facilities and the maintenance of the most efficient service possible.

For reasons which are obvious from the foregoing, the Government of the United States is not prepared to acquiesce in the proposal of the Foreign Office.

It is noted that Lord Curzon has deemed it proper to inform the Portuguese Government that since the Government of the United States is not party to the International Telegraphic Convention and has not granted to other Powers the benefits contemplated by that Convention, the United States is not in a position to claim the benefits of it. American cable companies operating in the Azores are obliged to comply with the regulations carrying out the provisions of the Convention and it would seem are therefore entitled to the benefits of it. His Majesty's Government is not, therefore, in a position to maintain that the International Telegraph Convention cannot properly be invoked.

American cable companies have for some time been endeavoring to obtain from the Portuguese Government concessions authorizing them to land and operate cables in the Azores. The American companies are not seeking privileges which exclude British companies or which in any way interfere with the exercise by British cable companies of privileges similar to those sought by American companies. British cable companies have brought pressure to bear on the Portuguese authorities in opposition to the applications of American companies for concessions. A concession in favor of one of the American companies was submitted to the Portuguese Parliament where a condition was inserted requiring that all messages transiting the Azores for South America should be sent via the Cape Verde Islands. The other American company seeking a concession at the Azores has not yet been able to obtain favorable administrative action on its application. His Majesty's Government has been supporting the British cable companies in their opposition to the American companies and has endeavored to justify its action on the ground that the United States Government withheld licenses for the Miami-Barbados cable which connects at Barbados with the cable of the Western Telegraph Company extending to Brazil, and on the further ground that the entry of American cable companies in the Azores would subject British companies to harmful competition. The United States carefully and fully explained to His Majesty's Government its position regarding the Miami–Barbados cable. Now that the license has been granted, the Foreign Office intimates that that matter had no bearing on the attitude of His Majesty's Government toward concessions at the Azores. The Foreign Office emphasizes that the cable of the Western Telegraph Company is the normal route for traffic from Europe to South America, and that an arrangement whereby all unordered messages are to be sent over that route would be of no practical disadvantage to Ameri-

can companies. The Foreign Office represents that the interests of American cable companies would not be prejudiced by an arrangement whereby they would be permitted to carry ordered messages and would be excluded from unordered traffic, while British cable companies were permitted to carry ordered and unordered messages. If the interests of American cable companies would not be impaired under such an unequal arrangement, it is difficult to perceive that the interests of the British cable companies would be injured under an arrangement which placed both American and British companies on an equal basis and permitted both American and English companies to participate in ordered and unordered traffic. It would seem on the reasoning of the Foreign Office that British companies would have no occasion to fear harmful competition of American companies. It follows that the reasons which His Majesty's Government assigned for supporting British cable companies in their opposition to American companies in the Azores, no longer exist. In the circumstances, the Government of the United States is unable to escape the conviction that action by His Majesty's Government continuing to support the British cable companies in their opposition to American companies in the Azores and in endeavoring to cause the Portuguese Government to withhold from the American companies facilities similar to those granted to British companies entailing discrimination against American companies, would constitute unwarranted and improper interference in affairs of American companies in the Azores.

You will please communicate with the Foreign Office in accordance with the foregoing, expressing the hope that on reconsideration His Majesty's Government will deem it proper to withdraw its opposition to the applications of American companies for concessions in the Azores, and to inform the Portuguese Government accordingly.

I am [etc.] CHARLES E. HUGHES

811.7353b W 52/67 : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *February 17, 1923—6 p.m.*

37. Department has received report from our Legation at Lisbon [72] that the contract of the Western Union regarding cable landing in the Azores is expected to be issued from the Senate Monday, February 19, and to be sent back to the Chamber in order to have the amendment deleted. Final approval is expected as soon as this is

[72] Telegram no. 8, Feb. 16; not printed.

done. The Legation believes it will be extremely helpful to have British pressure withdrawn. Recently this pressure has been renewed with greater intensity.

PHILLIPS

811.7353b W 52/68 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *February 20, 1923—9 a.m.*
[Received 9:30 a.m.]

53. Department's telegram 37 of February 17. Late yesterday afternoon I had a conversation with Curzon. Toward the close of the interview I told him that a matter was still pending between our countries which I thought should be got out of the way at once. I said that in fact the situation had become acute and therefore the need of a settlement was pressing. I referred to the landing concessions in the Azores which were desired by American interests. He replied, as I expected, that the matter had not come to his attention since an unfinished conversation between us. What was the situation now? I outlined it in brief and also said that my Government had just sent me a concise but comprehensive statement which I would submit tomorrow morning for his consideration. My reference was to Department's instruction 799 of February 3.

He said that was very good. He retained a fair understanding of the matter in his memory, he thought, but would like to have me recite the salient points to refresh his recollection. (My purpose was admirably served by this hackneyed but always charming method of trapping incautious novices as it helped to bring matters quickly to a head.)

I replied that my understanding of the situation was as follows: American cable companies wished to land cables on the Azores and had tried without success to obtain the necessary permission from various Portuguese Governments. The existing Portuguese Government is willing to grant these concessions in order to obtain revenues and additional facilities but is unable to do so on account of the opposition which the British Government is offering in the interest of Sir John Pender's Company which insisted that it retain monopolistic privileges.

Curzon declared instantly that certainly the exclusive rights of the British Government should be conserved, in spite of America's open-door theories. What were these British rights? Was I informed? I was happily able to tell him that whatever monopolis-

tic rights had originally existed expired in 1908. If he still had any doubts on that point he could consult Sir John himself.

(Yesterday morning, incidentally, I saw a letter to that effect signed by Sir John.)

I continued that consequently the situation in brief is this: Great Britain, a friendly power, keeps Portugal, a neutral power, from carrying out her wishes in granting equal telegraph facilities to America, another friendly power, because Great Britain desires to keep a monopoly which in law she no longer possesses, and to bring about this result Great Britain makes use of the financial obligations which Portugal, her friend and ally, is under to her in order to keep America from exercising her just and natural prerogative. Thus Portugal is placed by Great Britain in a state of vassalage, and America, Britain's friend, is again placed in a state of doubt and suspicion such as she was in before the statement on the debt.

I added that my understanding might of course be inconclusive but if not I could not see how the British attitude could be regarded either as wise or defensible.

In reply Curzon said that his memory was somewhat hazy, as he had remarked; but, nevertheless, on account of my insistence that the subject be disposed of before the end of the present session of the Portuguese Parliament, he would promptly attend to the matter.

HARVEY

821.73/34

The Minister in Colombia (Piles) to the Secretary of State

No. 140 BOGOTÁ, *March 19, 1923.*

[Received April 11.]

SIR: I have the honor to refer to my predecessor's despatch No. 865 of March 13, 1922,[73] to the Department's cable message of February 6, 5 p.m.[74] of the same year, relative to the concurrence of the Colombian Government in a resolution adopted by the Board of Directors of the All America Cables, Incorporated, on January 30, 1922, whereby it renounces certain preferential rights held in Colombia and other countries in favor of American and British cable companies. On March 13, last, the British Minister called on me and left a memorandum, copy of which is enclosed herewith,[75] intimating that the Colombian Government had not yet acquiesced in the waiver of the All America Cables, but would so acquiesce when such waiver was presented to it.

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[73] Not printed; see the Minister's telegram no. 15, Mar. 11, 1922, *Foreign Relations*, 1922, vol. I, p. 525.

[74] *Ibid.*, p. 521, footnote 42.

[75] Not printed.

Upon reviewing the past correspondence on this subject, I found that a petition had been presented to the Colombian Government by the Banco Mercantil Americano de Colombia, accompanied by a copy of the resolution of the Board of Directors above referred to, and the acquiescence of the Government to the waiver contained therein, requested. On March 9, 1922, the Colombian Minister of Government (Interior) addressed a communication, copy of which was enclosed in despatch No. 865 above mentioned, to this Legation stating that in response to the petition of the representative of the All America Cables, his Ministry had issued a resolution, in part as follows:

"Ministry of Government—Section 2—National Telephones and telegraphs—Bogota, March 3, 1922 . . .[76] BE IT RESOLVED:—The Government of Colombia finds no legal impediment to the renunciation by the All America Cables, Incorporated, which is the subject of the resolution of the 30th of last January, of the Company mentioned, and consequently, the latter may make the renunciation referred to in the petition, in favor of American and British Cable Companies; it being thoroughly understood that, according to the contract in force, Article I of which is copied above, the latter terminates the 25th day of August, 1924. It is hereby ordered that the above communication [*be communicated*] to the interested party and that notice thereof be given to His Excellency the Minister of the United States of America, as is requested. (Signed) The Minister, V. M. Salazar"

Copies of notes exchanged between myself and the British Minister in the premises are enclosed herewith[77] and from statements made by the latter, it would appear that the Colombian Government does not consider that the action taken by it amounts to a concurrence in the renunciation of rights made by the American Company.

In the circumstances I have concluded to acquaint the Department with the facts that it may, if it sees fit, suggest to the Cable Company that, in order to avoid further delay or correspondence, it might be well for it to file with the Colombian Government a formal waiver of its preferential or exclusive rights.

SAMUEL H. PILES

811.7353b W 52/77 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *March 27, 1923—3 p.m.*

68. Lisbon Legation reports[78] that on March 21 the British Minister to Portugal made a strong protest to the Prime Minister against

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[76] Omission indicated on original despatch.
[77] Not printed.
[78] Telegram no. 12, Mar. 22, 1923; not printed.

the granting of cable concessions to the American companies. Try to secure an early answer to our last note to the British Government.

HUGHES

811.7353b W 52/101

The Ambassador in Great Britain (Harvey) to the Secretary of State

No. 2273 LONDON, *April 20, 1923.*

[Received April 30.]

SIR: With reference to my telegram No. 117, of April 19, 5 p.m., 1923,[79] I have the honor to forward herewith copy, in triplicate, of the Foreign Office Note No. A 2051/319/45, of April 18, 1923, relative to the Azores cable situation.

I have [etc.]

For the Ambassador:
POST WHEELER

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. A 2051/319/45 LONDON, *April 18, 1923.*

YOUR EXCELLENCY: On receipt of Your Excellency's note No. 593 of the 20th February last,[80] I requested His Majesty's Minister at Bogotá to report on the present position of the waiver by the All-America Cables Company of their exclusive rights in Colombia. Lord Herbert Hervey replied on the 16th ultimo that the Colombian Government did not consider that they had received formal notice of renunciation by the cable company and that his United States colleague was informing your government in order that action might be taken by the company. In thus confirming the statement contained in my note of November 14th last [81] to which you took exception, I have the honour to make the following further observations respecting the points mentioned in your note under reply and that of December 21st last,[82] in regard to which there is still some disagreement between our two Governments.

2. I may perhaps be excused for not understanding the practice of the United States Government in connection with the issue of landing licenses (as suggested in paragraph 5 of your note of

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[79] Not printed.

[80] See instruction no. 799, Feb. 3, 1923, to the Ambassador in Great Britain, p. 271.

[81] *Foreign Relations*, 1922, vol. II, p. 381.

[82] See instruction no. 746, Dec. 6, 1922, *ibid.*, p. 383.

December 21st) seeing that Mr. Norman Davis, when Under-Secretary of State, in giving evidence before the Interstate Commerce Committee on December 15th, 1920 (S. 4301, page 6)[83] said that the authority of the President to control the landing of a cable "has never been specifically passed upon and determined by the court of last resort". The Committee, after hearing the evidence of Mr. Norman Davis and others, reported a bill which was introduced in the House of Representatives by Mr. J. Stanley Webster on May 18th 1921. Mr. Webster said, in part, referring to the attempt made by the United States Government in the Federal Court for the southern district of New York to restrain the Western Union Company from landing their cable at Miami, "Judge Hand of that Court seems to have held that there is no authority vested in the President of the United States to control the matter of cable landings especially where the case is one involving an American company which has complied with the provisions of the so-called post roads Act of July 24th, 1866. The case was appealed to the circuit court of appeals for the second circuit and the opinion of Judge Hand was affirmed. The United States has appealed the case to the Supreme Court where it has been fully presented and is now under submission for final decision." (*Congressional Record* May 20th[*18th*], 1921, p. 1592 [*1541*]).[84] Consequently, with reference to the last sentence of the same paragraph of your note, the practice of the United States Government, so far as any judicial decisions show, seems also to have been based on a misunderstanding. The remainder of the debate on the occasion to which I have referred, showed that the United States Government urgently desired the passage of the bill lest the Supreme Court should confirm Judge Hand's decision (*Congressional Record* May 20th[*18th*], 1921, pp. 1545[*1539*] *et seq.*) and that one of the chief objections to the Miami landing was that it would enable a British company to "get into the United States" (*Record* pp. 1554 and 1555 [*1550*]).

3. The statement in paragraph 6 of your note of December 21st that the cable from Brazil to Barbados was not laid until after the landing at Miami had been opposed by the United States Government is possibly somewhat misleading. The contention of the Western Union Company, subsequently upheld in the Courts as stated above, was that the State Department had no authority to oppose the land-

[83] *Cable-Landing Licenses:* Hearings before a subcommittee of the Committee on Interstate Commerce, U. S. Senate, 66th Cong., 3d sess., on S. 4301 (Washington, Government Printing Office, 1921).

[84] In this and later references to the Congressional Record, the paging given in the British note is that of the unbound copies. The corresponding page numbers in the bound volumes are here inserted in brackets.

ing; even if it had such authority, the date on which its opposition was officially manifested remained in dispute (see S. 4301). The facts with regard to the cable itself are that the section to Maranham was laid prior to July 1920: the remaining section was on board the "Colonia", which laid the Barbados-Miami Cable, and therefore could not be laid till after the "Colonia" reached Barbados from Miami. None the less the Western Company had long been committed to the expenditure on the cable (see pages 107, 311, 312 of S. 4301), and, I venture to think, my original proposition holds good, namely that the Company were faced with the loss of an investment of three million dollars made in good faith and in reliance upon the existing law of the United States.

4. I have again referred at some length to the essential points of the Miami incident because the statements contained in your two notes required a careful re-examination of the facts upon which His Majesty's Government based their impression of the attitude of the United States towards a British cable company. I greatly regret that nothing transpires which would justify any modification in the proposals contained in my note of November 14th last.

5. I observe, however, that your government consider "that if American cable companies are able to establish a more efficient service at better rates than their British competitors maintain, they, and those who employ cables in the transaction of their business, are entitled to the benefit of their enterprise, and should not be deprived of them by artificial restrictions, such as His Majesty's Government propose to place on American companies". This statement seems to be based on a misunderstanding, seeing that no proposal is being made to restrict the normal control by the Portuguese Telegraph Administration of the routing of unordered telegrams originating in, or in transit through, its territory.

6. In this connection I would remind you that the Newfoundland Government has recently concluded an agreement with one of the United States companies competing with the British Imperial cables for trans-Atlantic traffic, whereby all the unordered traffic from Newfoundland for Great Britain and places beyond, including the continent of Europe, is to be handed over to that company for fifteen years. I presume the United States Government are aware of this transaction and I should be glad to learn in what way it differs in their opinion from the arrangements at the Azores to which they object, except that at the Azores the unordered traffic would be sent by British cables and at Newfoundland by a United States cable.

7. In order that there may be no further misunderstanding with regard to the attitude of His Majesty's Government, I take this op-

portunity to repeat that they are quite willing to leave the matter to the discretion of the Portuguese Government after free negotiation between the British and United States companies, if the United States Government is prepared to adopt that course.

I have [etc.] CURZON OF KEDLESTON

811.7353b W 52/99

The Italian Embassy to the Department of State

MEMORANDUM

The Italian Minister for Foreign Affairs has given instructions to the Ambassador of Italy at London to come to an understanding with the United States Ambassador for a joint action to be taken for the purpose of inducing the British Government to desist from exercising pressure upon the Portuguese Government against the latter granting the landing at the Azores of the American Western Union cable.

WASHINGTON, *April 26, 1923.*

811.7353b W 52/97 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *April 28, 1923—3 p.m.*
[Received 4 p.m.]

135. My 117, April 18 [*19*], 5 p.m.[85] Western Union officials puzzled as to meaning of Foreign Office note. They desire to know whether British Government will actually seek to conclude [*exclude*] all South American traffic from Western Union cables when landed at Azores or ordered South American traffic only or will not seek to exclude any South American traffic from the Western Union cable. They believe this should be determined without delay.

Mr. Goddard sought to learn attitude of Sir John Pender on those points on the 25th instant but could get no definite reply.

With regard to the statement in note that British Government willing to leave the matter in the hands of Portugal after companies have come to an agreement Pender informed Goddard that there was no use at present of considering terms; that in the course of the next month or so something might develop which might form the basis of an agreement.

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[85] Not printed.

Western Union officials here believe that the purpose of the note was to confuse the situation and delay matters until the adjournment of the Parliament at Lisbon which will probably take place on the 31st of May.

HARVEY

811.7353b W 52/103 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *May 4, 1923—10 a.m.*
[Received 7:50 p.m.]

145. My 125, April 25, 11 a.m.[86] Wednesday afternoon the Italian Ambassador informed Lord Curzon that the Government at Rome considered that the British opposition to the landing of the Western Union cable was without justification. Lord Curzon stated that he did not see why Italy took up the American contention in this case; that he did not see that Italy was interested. Della Toretta explained that the Italian cable was to connect with the Western Union line at the Azores. The Foreign Minister then pointed out the alleged disadvantage to Italy from the commercial point of view of having South American messages from the peninsula routed via the United States.

Lord Curzon stated that he would forward to the Italian Embassy here a memorandum stating the position of the British Government and he requested that Rome take no further steps pending receipt of this memorandum. This memorandum will be shown to me.

At the Italian Embassy it is believed that Lord Curzon is playing for time until the Parliament at Lisbon adjourns.

WHEELER

811.7353b W 52/104 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *May 4, 1923—11 a.m.*
[Received 6:45 p.m.]

146. My 135, April 28, 3 p.m. In view of the fact that the Portuguese Parliament will probably adjourn on the 31st instant and of the inconsistency between paragraphs 5 and 7 of the Foreign Office note of April 18th the Western Union officials here are strongly of the opinion that the Foreign Office should be asked categorically whether it was intended to indicate in the note above cited that opposition will no longer be offered by the British Government to the landing of the cable at the Azores.

WHEELER

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[86] Not printed.

821.73/34 : Telegram

The Secretary of State to the Minister in Colombia (Piles)

WASHINGTON, *May 5, 1923—6 p.m.*

13. Your despatch 140, March 19, 1923. By telegram February 6, 5 p.m., 1922,[87] Department informed Legation of plan of mutual surrender of exclusive privileges in South America by All America Cables and Western Telegraph Company. In that telegram resolution of waiver adopted by All America was quoted and Legation was informed that Western Telegraph had adopted corresponding resolution. These resolutions were to be presented by local representatives of companies to governments concerned, with petitions that governments indicate their acquiescence in waivers. It is understood that this was done by representative of All America in Colombia.

On March 9, 1922, Minister of Government addressed note to Legation[88] quoting a resolution issued by Ministry in response to petition of All America Cables. American Minister acknowledged note as informing him of concurrence of Government of Colombia in petition of company to acquiesce in waiver.

By Department's telegram of August 25, 6 p.m.[89] Legation was informed that President had signed license authorizing Western Union Company to land cable at Miami; that granting of license was conditioned on waivers by both cable companies of exclusive privileges in South America; and that license was granted after satisfactory expressions had been obtained from all governments concerned regarding waivers of cable companies, which were in terms effective upon acquiescence by governments. Legation was directed to convey to Colombian Government expression of appreciation of sympathetic consideration accorded in the matter by Government of Colombia.

In these circumstances the Government of the United States has regarded the action of All America Cables in presenting waiver and petitioning for acquiescence as sufficient on part of company and has regarded resolution of Ministry of Government as indicating acquiescence of Colombian Government rendering waiver effective.

Please communicate with Colombian Foreign Office in accordance with foregoing emphasizing that resolution of waiver required only acquiescence and not formal agreement by Colombian Government and expressing the hope that inasmuch as All America Cables peti-

[87] *Foreign Relations*, 1922, vol. I, p. 521, footnote 42.

[88] See telegram no. 15, Mar. 11, 1922, from the Minister in Colombia, *ibid.*, p. 525.

[89] See *ibid.*, p. 537, footnote 66.

tioned the Government to acquiesce in company's waiver and Colombian Government in resolution of March 3 declared that company might make renunciation and American Minister in his note of March 13 to Minister of Government [90] referred to the action taken by Colombian Government as concurrence in company's waiver and subsequently conveyed to Colombian Government expression of appreciation of sympathetic consideration given matter by Colombian Government and since the United States has acted up to this time on the understanding that Colombian Government had acquiesced, All America Cables may be regarded by Government of Colombia as having waived its exclusive rights in Colombia. Telegraph result.

[Paraphrase.] Department is astonished that any question should be raised on effectiveness of waiver of All America Cables in Colombia and thinks it unfortunate that this has occurred. Alleged incompleteness of waiver is being used by British Government against United States Government in discussions on opposition of British Government to applications of American cable companies for concessions to land cables in the Azores. Take no further action without consulting the Department. [End paraphrase.]

HUGHES

811.7353b W 52/111 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *May 16, 1923—5 p.m.*
[Received 7:20 p.m.]

167. The Italian Embassy has not as yet received the promised note from Curzon in reply to its representations in the matter of the Azores cable situation.

I learn that on May 14, a cable from Mussolini instructed the Embassy to renew its representations with all possible energy.

WHEELER

811.7353b W 52/101 : Telegram

The Secretary of State to the Chargé in Great Britain (Wheeler)

WASHINGTON, *May 17, 1923—11 a.m.*

111. Reference Embassy's despatch No. 2273, April 20th. Please make answer to Lord Curzon's note of April 18th in the sense of the following:

(1) The views of the Government of the United States in regard to the waiver of the All America Cables Company of its exclusive

[90] Not printed.

privileges in Colombia are set forth at length in the Department's instruction No. 799 of February 3, 1923. It may, however, be stated in review that All America Cables, Incorporated, adopted a resolution similar to one adopted by the Western Telegraph Company, Limited, by the terms of which the waiver of exclusive privileges was to become effective upon acquiescence of all governments concerned. Formal acceptance of the waiver was not required. The resolution of the company was duly presented to the Government of Colombia by a representative of the company with a petition that the Government of Colombia acquiesce in the waiver. On March 9, 1922, the Colombian Minister of Government addressed a note to the American Legation at Bogota,[91] quoting a resolution issued by the Ministry in response to the petition of the company. This resolution was quoted in translation in the Department's No. 799 of February 3rd. The American Minister acknowledged the note of the Minister of Government, expressing appreciation of the concurrence of the Government of Colombia in the petition of the company that the Government of Colombia acquiesced in the waiver. When the President signed a license authorizing the Western Union Telegraph Company to land a cable at Miami, Florida, the American Legation at Bogota was directed to inform the Government of Colombia that the President had issued the license; that the granting of the license was conditioned on waivers by both cable companies of exclusive privileges in South America and that the license was granted after satisfactory expressions had been obtained from all governments concerned regarding the waivers of the cable companies which were, in terms, effective upon acquiescence by the governments concerned. The Legation was directed further to convey to the Colombian Government an expression of appreciation of the sympathetic consideration which had been accorded the matter by the Government of Colombia.

In these circumstances the Government of the United States felt warranted in regarding the action of All America Cables, in presenting a waiver and petitioning for acquiescence, as sufficient on the part of the company and considers that the resolution of the Ministry of Government indicated acquiescence by the Government of Colombia. In this connection it may be observed that His Majesty's Government, according to the views expressed in its note of August 18, 1922,[92] apparently understood at that time that the Government of the United States withheld the license for the landing of the cable at Miami, after the requirements of the resolutions

[91] See telegram no. 15, Mar. 11, 1922, from the Minister in Colombia, *Foreign Relations*, 1922, vol. I, p. 525.

[92] *Ibid.*, vol. II, p. 373.

of the All America Cables Company and the Western Telegraph Company had been fully met by all the governments concerned.

(2) Respecting the comments of Lord Curzon with respect to the proceedings in the District Court for the Southern District of New York and in the Circuit Court of Appeals, it is true that in the lower Courts, decisions were rendered in favor of the Western Union Telegraph Company as he states, but an appeal was taken by the Government of the United States from these decisions to the Supreme Court of the United States. It is also true that no decision was rendered by the Supreme Court, the final authority to determine such questions. However, it should be added that the Supreme Court of the United States entered an order reversing the decree of the Circuit Court of Appeals in accordance with stipulations filed by the parties to the litigation and remanded the case to the District Court of the United States for the Southern District of New York with directions to enter a decree dismissing the bill without prejudice. (*United States* vs. *Western Union Telegraph Company*, 260 United States Supreme Court Reports. Page . . . ; U. S. Supreme Court Journal, October 23, 1922.) By this action the decisions of the lower courts were rendered of no effect. In fact the Court proceedings stopped short of final action, the practice followed by the United States in controlling the landing of cables in the territory of the United States in effect being confirmed by the Congress and all further controversy on this point being rendered futile.

(3) The United States perceives no occasion for regarding the statement contained in the sixth paragraph of the Embassy's note to the Foreign Office of December 21, 1922, that the cable from Brazil to Barbados was not laid until after the landing at Miami had been opposed by the United States as being misleading, which it appears from the third paragraph of his note Lord Curzon thought it might possibly be. The reasons for the statements to which Lord Curzon refers were fully set forth in the paragraph of the Embassy's note mentioned, and it is clear from the information contained therein that the Western Telegraph Company, Limited, was charged with notice that cables could not be landed in the United States without a license issued by the President, notwithstanding the contention of the Western Union Telegraph Company that the executive branch of the Government had no authority to oppose the landing. The United States has not questioned the good faith of the Western Telegraph Company, Limited. It cannot, however, be claimed that either the Western Telegraph Company or the Western Union Company had the right under law to land a cable in the United States. On the contrary, the historic practice

of the United States in that regard was well known and it had never been decided finally the other way.

(4) As to the fourth paragraph of Lord Curzon's note, this Government does not find it necessary to repeat what has already been said.

(5) This Government is gratified to learn that His Majesty's Government is making no proposal to restrict the normal control by Portugal of the routing of unordered telegrams originating in, or in transit through, Portuguese territory. This Government would be lacking in candor if it failed to express the surprise and concern with which it has viewed the opposition of His Majesty's Government to the endeavors of American cable companies to secure from the Portuguese Government cable landing rights at the Azores. If this Government is correct in understanding that the British Government will no longer seek to interfere with the freedom of contract of the Portuguese Government and that it is entirely willing to leave the normal control of traffic to the Portuguese Government, this Government would be glad to receive a statement from His Majesty's Government to that effect.

(6) There would appear to be no analogy between the contract entered into by the Government of Newfoundland and the Commercial Cable Company and the state of affairs which obtains at the Azores. The subject of this correspondence is the action of His Majesty's Government in seeking to interpose its influence against the legitimate efforts of American cable companies to obtain concessions in the Azores and the opposition of His Majesty's Government to the granting of concessions in the Azores except on terms approved by British cable companies and His Majesty's Government and with conditions restricting the traffic which American cable companies may carry. To this interference with and opposition to transactions between the Portuguese Government and American cable companies, there is nothing to correspond in the relations between the Government of Newfoundland and the Commercial Cable Company, and it is this interference and opposition exerted by His Majesty's Government outside its jurisdiction which this Government has deeply regretted as being entirely without warrant.

(7) This Government has examined the contents of Lord Curzon's note with the greatest care and confesses its inability to find points pertinent to the particular issues involved. This Government is loath to infer from the statement in the seventh paragraph of the note under reference that the British Government would be disposed to continue to interfere with the freedom of action of the Portuguese Government in this relation, or that it is intended by the reference to negotiations between the American and British companies to

imply that American cable companies may not, themselves, seek permission to land their cables in the territory of another friendly Power, in which it is understood British cable companies enjoy no contractual rights of a privileged or exclusive character, or that it is the purpose of His Majesty's Government to impose a limitation on the character of the traffic that may be carried by the American companies as compared with British companies through enforced agreement of American cable companies with British cable companies. This Government fails to comprehend on what grounds the influence of His Majesty's Government can be exerted against the American cable companies and earnestly hopes that His Majesty's Government will refrain from further opposition to American enterprise at the Azores.

Mail to Legation at Lisbon copy of your note to the Foreign Office.

HUGHES

811.7353b W 52/114 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *May 24, 1923—5 p.m.*

[Received 7:50 p.m.]

181. I had a conversation with Sperling on the 22nd. He had not seen the Embassy's note based on your 111, May 17, 11 a.m. which was delivered on the 19th. He stated that the opposition of the British Government to the Western Union application "was still in force and would continue to be in use." While it was clear from his conversation that underlying this attitude was a belief that unfriendliness was shown by the United States in the Miami incident in the passage of a retroactive act prohibiting the landing after license therefor had been granted by the War Department, he stated that the legal principle for which the British Government was contending was that the companies concerned should enjoy entire freedom of the right to contract. The free negotiation referred to in the last paragraph of the Foreign Office note of April 18th would appear to mean that the United States will assure the Western Union that a landing license in the United States will be granted whatever arrangement the company comes to with the Western relative to the passage of South American traffic through the Azores.

Kerr [93] is consulting with Mr. Goddard this afternoon as to the advisability raising the case in Parliament next week, which he believes could not make the opposition in Lisbon stronger and would probably considerably embarrass that opposition.

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[93] Frederick Kerr, agent of the Western Union Telegraph Co.

Mr. Kerr considers that the chances are good for the granting of the Portuguese license in spite of the British opposition but he is greatly worried by the news that it is likely to continue.

WHEELER

811.7365 W 52/26

The Secretary of State to the Italian Ambassador (Caetani)

WASHINGTON, *June 9, 1923.*

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your letter of May 28[94] with which, in reference to our previous conversations on the subject, you were good enough to enclose a copy of the *Gazzetta Ufficiale* of the Kingdom of Italy containing the text of the contract between the Royal Italian Government and the Italian Submarine Telegraph Cable Company, which has been formed for the purpose of furnishing direct cable communication between Italy and North America. You express the hope that this Government will see its way to furnish the necessary facilities for the successful realization of this enterprise.

In reply I take pleasure in informing you that it is my intention to recommend to the President the issuance of a license in response to the application heretofore made by the Western Union Telegraph Company granting to that Company permission to land a cable in the United States to extend from Rockaway Beach, Long Island, to the Azores where it will connect with the proposed cable to be laid by the Italian Company, the license to contain the following condition:

"That the Licensee does not enjoy and shall not acquire in the Azores, or in any European country connected with the Azores by cable, any right of entry, connection, or operation of cables which by reason of any concession, contract, understanding or working arrangement to which the Licensee is a party is denied to any American company; and that the Licensee is not associated and shall not associate with any foreign company or concern which enjoys in the Azores or in any European country connected with the Azores by cable, any concession, or which is a party to any contract, understanding, or working arrangement, by reason of which any American company is denied privileges or rights similar to those enjoyed by the foreign company or concern affecting traffic between the United States and the Azores, or between the United States and any European country connected with the Azores by cable, provided that this condition shall not be deemed to forbid the association of the Licensee with the Italian Submarine Telegraph Cable Company which enjoys certain privileges respecting unordered traffic by virtue of Article 28 of the contract between the company and the Italian Gov-

[94] Not printed.

ernment, signed at Rome on February 5, 1923, so long as an American cable company, able and willing to furnish the same or similar facilities for the transmission of traffic by cable between the United States and Italy, either directly or via the Azores, shall not be denied equal opportunity with respect to unordered traffic by virtue of the said article or otherwise."

Permit me to add for your information that the terms of the foregoing condition have been communicated to the Western Union Telegraph Company.

I am [etc.] CHARLES E. HUGHES

811.7353b W 52/127½

Memorandum by the Secretary of State of a Conversation with the Italian Ambassador (Caetani), June 14, 1923

[Extract]

American License for Connecting Cable. The Ambassador referred to the communication from the Department as to the terms of the proposed license to the American Company and its reference in the proposed condition with respect to the association with the Italian Company. The Ambassador said that he was drafting a reply but before he submitted it to his Government he would like to ask the Secretary confidentially about it. His Government, of course, anticipated that before any action would be taken under the conditions in the license that the two governments would exchange views, but that his government had put it rather strongly that the condition should not be acted upon by the American Government without the consent of the Italian Government. The Ambassador understood that that was an impossible qualification but he had phrased a suggestion in his letter and would like to know whether the Secretary was disposed to favor it. The Secretary then looked at the draft letter which provided in substance that the American Government would not proceed to act upon the condition until the "two governments had first fully discussed all possible means of reaching an agreement." The Secretary said he did not object to the general purpose in view but he thought the language rather broad. The Secretary suggested that negotiations which were to involve a full discussion of "all possible means" might mean an indefinite discussion, without any provision for terminal facilities. No one could tell when all possible means had been exhausted. The Secretary said that of course the American Government, while entirely willing to take the matter up in a proper way with the Italian Government, could not foreclose its authority to terminate the discussion and act upon the condition if it saw fit. The Secretary suggested that the phrase be "until the two governments had endeavored

to reach an agreement." The Ambassador said that would be satisfactory.

811.7365 W 52/27

The Italian Ambassador (Caetani) to the Secretary of State

WASHINGTON, *June 21, 1923.*

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your letter of June 9th, with which, in replying to my letter of May 28th,[95] you have been good enough to inform me that it is your intention to recommend to the President the issuance of a license in response to the application heretofore made by the Western Union Telegraph Company, granting to that Company permission to land a cable in the United States, to extend from Rockaway Beach, Long Island, to the Azores, where it will connect with the proposed cable to be laid by the "Compagnia Italiana dei Cavi Telegrafici Sottomarini". Such a license should contain, besides the usual formula excluding any monopolistic possibility, a further provision reading as follows:

"provided that this condition shall not be deemed to forbid the association of the Licensee with the Italian Submarine Telegraph Cable Company which enjoys certain privileges respecting unordered traffic by virtue of Article 28 of the contract between the Company and the Italian Government, signed at Rome on February 5, 1923, so long as an American cable company, able and willing to furnish the same or similar facilities for the transmission of traffic by cable between the United States and Italy, either directly or via the Azores, shall not be denied equal opportunity with respect to unordered traffic by virtue of the said article or otherwise."

I did not fail to communicate your reply to my Government and I am now authorized to say that the Italian Government, as well as the Italian interests concerned in this enterprise, are willing to agree to the addition of the above quoted clause on the understanding that the scope of such a provision is to safeguard a point of principle, well knowing that the American Government will always actually deal in this respect with its usual sense of loyalty and equity towards Italy.

My Government feels confident that any practical enforcement of the above mentioned provision will not be enacted without the two Governments having first earnestly endeavored to come to a friendly agreement on the matter.

I would be glad to be put in a position to assure the Royal Government on this point.

Accept [etc.] CAETANI

[95] Not printed.

811.7353b W 52/138 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *June 26, 1923—4 p.m.*
[Received June 27—6 : 29 a.m.]

250. Today the Western Union and the Italian cable made a formal offer of an agreement to Sir John Pender along the following lines:

1. Unordered traffic originating in all European countries to be served by the Fiumicino–Azores Cable destined for South America and transiting the Azores to be delivered to Western Telegraph Company for transmission to destination.
2. After the completion of the Italian cable from the Azores to South America traffic originating in the European countries mentioned to be delivered to Western Telegraph Company whenever the Italian–South American cable is interrupted. This agreement to be binding for ten years from the date when the Italian–South American cable is open for the reception of traffic.

In consideration of above Sir John Pender is (1) to cease all opposition to the ratification of the original provisional contract between the Western Union and the Portuguese Government for a landing license at the Azores and to do everything possible to secure the withdrawal of the amendment by the deputies, (2) to request the Foreign Office immediately to instruct the British Minister at Lisbon to notify the Portuguese Government that Great Britain no longer has any objection to the ratification of the original provisional contract, (3) to promise that he will refrain from opposing the issuance by the Portuguese Government to the Italian company of a license to land the Italian–South American cable at Cape Verde Islands.

The Western Union representatives trust that no objection to the above proposals will be entertained by the Department.

WHEELER

811.7365 W 52/27

The Secretary of State to the Italian Ambassador (Caetani)

WASHINGTON, *June 27, 1923.*

EXCELLENCY: I have the honor to acknowledge the receipt of your Excellency's note of June 21, 1923, in which you inform me that the condition quoted in my note to you of June 9, 1923, which it is proposed to include in the license to be issued to the Western Union Telegraph Company, authorizing the company to land a cable in the United States extending to the Azores where it will connect with

the cable of the Italian Submarine Telegraph Cable Company,[96] is agreeable to your Government and to the Italian interests concerned in the enterprise. You state that your Government is confident that practical enforcement of the condition mentioned will not be undertaken without the two Governments first earnestly endeavoring to come to a friendly agreement in regard to the matter.

I am gratified that the proposed condition is agreeable to your Government and to the Italian interests concerned, and assure you that, before taking action to carry out the provisions of the condition mentioned, the Government of the United States will discuss the matter with your Excellency's Government in an effort to adjust any question which may have arisen.

Accept [etc.] CHARLES E. HUGHES

811.7353b W 52/138 : Telegram

The Secretary of State to the Chargé in Great Britain (Wheeler)

WASHINGTON, *June 30, 1923—2 p.m.*

165. Your 250, June 26, 4 p.m.

The Department will not oppose the proposed agreement. Department has been actuated in its efforts to assist American cable companies to obtain concession in the Azores by desire to place them in the Azores in a position no less advantageous than that enjoyed by British companies. If American companies desire to accept less than Department has endeavored to assist them to obtain they are at liberty to do so and must accept consequences and assume responsibility for their action.

The Department observes that it is not clear from the second paragraph of the offer whether that paragraph relates to all traffic originating in European countries or whether the paragraph is limited to unordered traffic.

HUGHES

811.7353b W 52/141 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *July 3, 1923—11 a.m.*

[Received 12:51 p.m.]

264. Your 165, June 30, 2 p.m. The second paragraph of the offer mentioned relates to all traffic originating in South Europe, i.e., the south to be served by the Italian cable.

WHEELER

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[96] The license referred to was signed by the President, Aug. 25, 1923.

821.73/35 : Telegram

The Minister in Colombia (Piles) to the Secretary of State

BOGOTÁ, *July 16, 1923—5 p.m.*
[Received July 18—10 a.m.]

17. Your May 5, 6 p.m. I am informed by Foreign Office that the Minister of Government considers waiver of All America Cables is already accepted by resolution of March 3rd, 1923 [*1922*]. Full report by mail.[97]

PILES

811.7353b W 52/150 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *July 18, 1923—4 p.m.*
[Received 6:55 p.m.]

303. My number 250, June 26, 4 p.m. On the 13th instant the Western Union despatched a letter to Sir John Pender stating that in the event he did not reply to the company's offer set forth in the telegram above referred to it would be withdrawn.

Yesterday Sir John replied to the Western Union rejecting the offer.

WHEELER

811.7353b W 52/174 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *November 20, 1923—3 p.m.*
[Received 4:07 p.m.]

516. Recently, as an outcome of conversations between Sperling and myself *in re* the Azores cable situation, the suggestion was made that Sir John Pender and Mr. Carlton be invited to confer together at the Foreign Office at which conference representatives of the Foreign Office, the Postmaster General and this Embassy should be present, with a view to ascertaining whether the differences between their companies might not be adjusted. The first meeting under this arrangement took place yesterday.

In the discussion it developed that at the bottom of Pender's opposition to the Western Union applications at the Azores is the agreement by which that company is to subscribe $1,250,000 for the construction of the Italian cable from Fiumicino to the Azores via

[97] Not printed.

Malaga. As this cable will eventually be a part of the Italian cable to South America which is to be laid Fiumicino–Malaga–Canaries–Fernando–Noronha–Brazil, it was claimed by Sir John that a Western Union interest therein would be in violation of the agreement of July 24th, 1919, which created the through line via Barbados. Carlton admitted that this was an arguable point and offered to confine the Western Union subscription to the Italian cable to the section between Malaga and the Azores. Pender accepted this offer in principle. Both Pender and Carlton then dictated tentative heads of agreement which cover the same points as the Western Union offer of June 26th (reported in my 250, June 26, 4 p.m.) plus the above and a clause giving Pender's group the option of taking an interest of 25% in the Malaga–Fiumicino portion of the projected Italian scheme. Both gentlemen indicated their complete satisfaction with this arrangement and if no new difficulties arise I anticipate that the withdrawal of the British opposition will follow in the near future.

WHEELER

811.7353b W 52/175½

Memorandum of a Conversation between the Assistant Secretary of State (Harrison) and Messrs. Goldhammer and Burden of the Commercial Cable and Postal Telegraph Companies, November 22, 1923

Mr. Goldhammer stated the present status of the situation regarding the Company's enterprises at the Azores and explained the reasons which had influenced the Company in their decision to secure landing rights through the British company. He was glad to say that he had found that the 1913 rights which they had secured through the British company had not been invalidated through the lapse of time and that it had been found possible to obtain an extension of these rights by action of the Council of Ministers of Portugal without again submitting the matter to the Portuguese Parliament. The Company had been glad in this way to avoid direct contact with the Portuguese officials. Their relations in the future as in the past would be handled through the British company. In view of this situation, the Company did not propose to secure legislative action on a direct concession.

Mr. Goldhammer also mentioned the Company's relations with Mr. Suarez and the efforts of their German connecting company itself to procure landing rights in the Azores, that presumably these would have to be obtained through the British company or at least with the assistance of the British company, and in this connection he informed me that the Germans had reached an agreement to land the loose

end of the Emden cable in Great Britain, there to connect with the Eastern, for South American traffic via the Azores and the Western Company.

811.7353b W 52/186 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

[Paraphrase]

LONDON, *December 18, 1923—6 p.m.*
[Received December 18—5:03 p.m.]

561. Foreign Office informs me that it has advised British Minister to Portugal regarding signing on December 10 of agreement by the Western Union, Italian, and the Western Telegraph Companies and has instructed him not to oppose any longer the Western Union concession.

Repeated to Legation in Portugal.

WHEELER

811.7353b W 52/187 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

[Paraphrase]

LISBON, *December 19, 1923—noon.*
[Received 4:10 p.m.]

86. London's telegram to Department, December 18. Does Department think it advisable to insist that as a matter of primary fair-dealing the British Government should withdraw its opposition here, which from the first has been unwarranted and arbitrary, not to the Western Union alone but to any other concession to American interests, thus insuring that equal opportunity shall be open to all?

Shall I still press for the provisional concession to the Commercial Cable Company, which, if British withdrawal of opposition is limited to the Western Union, continues blocked? Instructions are desired.

DEARING

811.7353b W 52/190

The General Attorney for the Western Union Telegraph Company (Francis R. Stark) to the Assistant Secretary of State (Harrison)

NEW YORK, *December 22, 1923.*
[Received December 24.]

DEAR MR. HARRISON: I have received this morning a copy of the agreement recently signed in London between Mr. Carlton, Sir John

Pender; and the representative of the Italian Company, and I enclose a copy herewith for your information and that of the Department. You will observe that the English Company agrees to "raise no objection to the grant by the Portuguese Government to the American Company of the right to land at the Azores the cables in respect of which the American Company has already applied for landing permits."

Sincerely,

FRANCIS R. STARK

[Enclosure]

Agreement between The Western Telegraph Company, Ltd., the Compagnia Italiana dei Cavi Telegrafici Sottomarini, and The Western Union Telegraph Company, Signed December 10, 1923

AN AGREEMENT made this tenth day of December One thousand nine hundred an twenty-three between The Western Telegraph Company Limited of London (hereinafter called "the English Company") of the first part The Compagnia Italiana dei Cavi Telegrafici Sottomarini of Rome (hereinafter called "the Italian Company") of the second part and The Western Union Telegraph Company of New York (hereinafter called "the American Company") of the third part.

WHEREAS the English Company in association with other English Companies operates a system (hereinafter called "the English System") of submarine telegraph cables connecting Great Britain and the Continent of Europe with South America via the Azores.

AND WHEREAS the Italian Company under concession from the Italian Government with the benefit of certain guarantees and privileges proposes to lay and operate first a submarine telegraph cable connecting Fiumicino on the Coast of Italy with the Azores touching at Malaga on the Coast of Spain (hereinafter referred to as "the Italian Azores Cable") and secondly a submarine telegraph cable connecting Malaga with the coast of South America thus connecting Fiumicino with South America the cable or cables effecting such last mentioned connection being hereinafter referred to as "the Italian Direct Cable."

AND WHEREAS the American Company proposes to lay and operate a submarine telegraph cable between the Azores and North America thereby facilitating telegraphic communication between Italy and North America.

AND WHEREAS the American Company is not concerned in Mediterranean South American traffic to be carried by the Italian Direct Cable.

AND WHEREAS the English Company is not concerned in Italian North American traffic to be carried by the Italian Azores Cable and is only interested in that cable insofar as it may affect traffic between the Mediterranean and South America.

AND WHEREAS it is expedient that the traffic relations between the Companies should be regulated in manner hereinafter mentioned.

NOW IT IS HEREBY MUTUALLY AGREED as follows:—

1. As and from the opening for public traffic of the Italian Azores Cable all messages handed to the Italian Company at the terminus or at any point on the Italian Azores Cable to be transmitted to any place in South America and not being directed by the senders to be transmitted by any other named route (hereinafter referred to as "unrouted South American traffic") shall until the opening for public traffic of the Italian Direct Cable be handed by the Italian Company at the Azores or other point to be agreed for transmission to destination by the English System. The Italian Company to receive out of the total cable rates in respect of such messages the same net sum per word passing over the Italian Azores Cable as it would have received if such message had been a message passing over the said cable and destined for or originating in New York City at the rates at present in force between Italy and New York. In the event of the interruption of either the Fiumicino–Malaga section or the Malaga Azores section of the Italian Azores Cable the sum per word payable to the Italian Company in respect of such messages to be proportionately reduced according to cable mileage and further if both such sections be interrupted or unable to carry the traffic Mediterranean South American traffic shall be handed to the English System at points to be agreed upon.

2. If at any time after having been opened for public traffic the Italian Direct Cable shall be interrupted or unable to carry the traffic the Italian Company shall for a period of ten years dating from the opening of the Italian Direct Cable hand all unrouted South American traffic to the English Company at the Azores or other point to be agreed. The amount to be received by the Italian Company in respect of such messages shall be agreed between the English Company and the Italian Company or in default of agreement shall be decided by arbitration in accordance with the provisions of Clause 7 hereof.

3. The Italian Company will not directly or indirectly recommend suggest or influence the routing by senders of messages of South American origin or destination by any route other than that of the English System during any period in which pursuant to this Agreement unrouted South America traffic is to be handed to the English System at the Azores or other agreed point.

4. The Italian Company agrees in principle to a participation by the English Company in the capital to be invested by the Italian Company in that part of the Italian Company's proposed cables which lies between Fiumicino and Malaga the terms and conditions of such participation to be arranged to the mutual satisfaction of the Italian Company and the English Company with the approval so far as necessary of the Italian Government. The Italian Company undertakes that any funds so to be provided by the English Company shall be exclusively devoted towards meeting the cost of manufacturing and laying the cable from Fiumicino to Malaga.

5. The American Company has agreed to subscribe for a part of an issue of Debentures to be issued by the Italian Company and the Italian Company undertake that any funds so to be provided by the American Company shall be exclusively devoted towards meeting the cost of manufacturing and laying the cable from Malaga to the Azores.

6. The English Company will in consideration of the foregoing engagements raise no objection to the grant by the Portuguese Government to the American Company of the right to land at the Azores the cables in respect of which the American Company has already applied for landing permits.

7. This Agreement shall be read and construed in accordance with the principles of the law of Great Britain and in the event of any difference arising in respect of the construction of this Agreement or the rights hereunder of any of the parties hereto such difference shall be referred to the arbitrament of a single arbitrator under the provisions of the British Arbitration Act or any statutory amendment thereof such single arbitrator to be appointed by Agreement between the parties between whom the difference arises and failing agreement by the English Attorney General for the time being for all of which purposes the parties hereto submit to the jurisdiction of the Courts of England.

In witness whereof the Companies parties hereto represented respectively by their duly authorised officers have hereunto set their hands the day and year first above written.

For The Western Telegraph Company Limited,
J. Denison Pender,
Chairman.

For Compagnia Italiana dei Cavi Telegrafici Sottomarini,
Richard T. Durran,
Attorney for the Company.

For The Western Union Telegraph Company,
S. J. Goddard,
Vice President.

811.7353b W 52/187 : Telegram

The Secretary of State to the Minister in Portugal (Dearing)

[Paraphrase]

WASHINGTON, *December 26, 1923—3 p.m.*

46. Your telegram 86 of December 19. Your first paragraph. The Department is gratified that British Minister to Portugal has been instructed to withdraw his opposition to the application of the Western Union. The British Government, however, has not replied to our last note protesting against its attitude. The Department has not changed its attitude as presented in its correspondence with the British Government.

Second paragraph of your telegram. It is Department's understanding that the Commercial Cable Company will continue its present efforts to have the 1913 concession revived. The Department's assistance has not been asked by the company. If present efforts fail, however, it is presumed that the company would ask the assistance of the Department in an effort to secure the direct provisional concession.

As you will remember, both American companies asked for assistance from the Department in obtaining direct concessions. Later the Commercial Cable Company tried to meet its needs by a duplication of cables under the 1899 concession and obtained Sir John Pender's aid in its present effort to have the 1913 concession revived. Our telegram 18, May 21, 6 p.m.,[98] advised you of the Department's attitude. Before the Western Union made its June offer to Pender it asked whether the Department objected. In replying, through the Embassy in London, the Department stated that it would not offer objections to the proposed agreement; that it had been the wish of the Department to obtain for the American cable companies a position in the Azores no less favorable than the British companies enjoyed, but that if it was the wish of American companies to accept less they were free to do so. In that case, however, they must assume responsibility for their actions and take the consequences.

It is presumed that withdrawal of British opposition will lead to favorable action soon with respect to the Western Union's direct concession. The Commercial Cable Company has not asked the Department to aid it in having the 1913 concession revived.

It would seem wise under these circumstances for the Legation to take no action regarding the application of either company unless

[98] Not printed.

the company requests it and in that case only after consideration by the Department and instructions from it.

The above is strictly confidential for your guidance.

HUGHES

811.7353b W 52/200 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, *January 24, 1924—5 p.m.*

[Received 8:20 p.m.]

6. Chamber of Deputies has just approved finally Western Union contract. Report by mail. Embassies London and Rome informed. Please inform Newcomb Carlton in reply his letter 10th to me.

DEARING

DISPUTE WITH THE BRITISH GOVERNMENT OVER WITHDRAWAL OF RECOGNITION OF THE AMERICAN CONSULAR OFFICERS AT NEWCASTLE-ON-TYNE [99]

125.655/55a

The Secretary of State to the Ambassador in Great Britain (Harvey)

No. 812 WASHINGTON, *February 12, 1923.*

SIR: You are requested to deliver to Lord Curzon a note in the following sense, concerning the case of Consul Slater and Vice Consul Brooks whose exequatur and recognition, respectively, were canceled by the British Government:

"On behalf of my Government, I have the honor to inform Your Lordship of the receipt of Your Lordship's note of December 27, 1922,[1] in which you state the decision of the British Government with regard to the cancellation of the exequatur and recognition, respectively, of Mr. Slater and Mr. Brooks, Consul and Vice Consul at Newcastle-on-Tyne.

"In the circumstances, I am instructed to inform Your Lordship that orders have been issued not to reopen the Consulate and to dispose of the lease of the Consular premises.

"May I call once more to your attention the fact that a thorough investigation, of which the British Government has been fully informed, was made of this case by officers of my Government and that the evidence secured convinced my Government that the charges preferred cannot be substantiated.

"My Government desires me, furthermore, once again to point out that although it has never questioned the right of the British Government to cancel the exequatur of an American Consul on the ground

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[99] Continued from *Foreign Relations*, 1922, vol. II, pp. 392–406.

[1] *Ibid.*, p. 404.

that he is *persona non grata*, it considers that when specific charges are advanced it is compelled to make the most thorough investigation in order to clear or to discipline the alleged offender. My Government must, moreover, call in question the accuracy of the parallel which Your Lordship found in the cancellation in 1856 by the Government of the United States of the exequaturs of the British Consuls at New York, Philadelphia and Cincinnati. The evidence against these Consuls was developed in judicial proceedings which showed them to be guilty of violating the laws and the sovereign rights of the United States."

I am [etc.] CHARLES E. HUGHES

125.655/66 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *March 2, 1923—4 p.m.*
[Received 8:11 p.m.]

63. Your 43, February 28, 7 p.m.[2] Note from the Foreign Office acknowledging receipt of our note of February 28th on Newcastle case [3] states:

"With regard paragraph 3, I venture to observe that Your Excellency is under a misapprehension in stating that His Majesty's Government 'has been fully informed' of the thorough investigation made by officers of the United States Government. Such is not the case. A member of my Department was informed verbally in October last that such an investigation had been held and the statement was made in Your Excellency's note number 446 of November 9th last [4] that two separate inquiries into the facts were instituted by the United States Government. His Majesty's Government were not informed of the proceedings in the inquiries, nor shown the evidence submitted, although His Majesty's Government had furnished their evidence to the United States Government in my note to Your Excellency of August 28th last.[5]

As regards the accuracy of the parallel with the cancellation of the exequaturs of certain British consuls in the United States in 1856, I venture to refer Your Excellency to the quotation by the legal adviser to the [President] on that occasion from the commercial convention of July [3,] 1815,[6] Article IV, of which provides, 'In case of illegal or improper conduct towards the laws or government of the country to which he is sent, such consul may either be punished according to law, if the laws reach the case, or be sent back,

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[2] Not printed.
[3] See *supra*.
[4] See telegram no. 348, Nov. 8, 1922, to the Ambassador in Great Britain. *Foreign Relations*, 1922, vol. II, p. 400.
[5] Not printed.
[6] Malloy, *Treaties*, 1776–1909, vol. I, p. 624.

the offended government assigning to the other the reasons for the same'. Reference was made to Mr. Cushing's advice to the President[7] in my note above mentioned."

HARVEY

125.655/31 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *March 9, 1923—6 p.m.*

47. Your 69, March 7, 3 p.m.[8]

Department yesterday gave to press for release today and so advised British Embassy, Department's notes of August 11, November 8,[9] February 28,[9a] also text of telegram No. 292, September 18, 7 p.m.[9b] substance of which according to your telegram No. 482 of October 23, 2 p.m.[9c] was conveyed by you to Foreign Office.

As a preface to the publication of the notes the following explanatory statement was made.

"The Department of State has taken the position that since the British Government has charged the American Consular Officers at Newcastle with improper conduct in the performance of their Consular functions, and has allowed these charges to become public, it was incumbent upon the Department to investigate carefully the charges, in order to determine whether or not the officers were guilty and, if guilty, the extent of the discipline required. With a view to reaching a conclusion, a very careful investigation of all the facts was at once undertaken, with the result that the Department reached the conclusion that the charges against the officers had not been substantiated. In these circumstances, the Department saw no alternative but frankly to advise the British Government of the result of its investigation and to express the hope that the charges could be withdrawn.

"Article 4, of the Convention of Commerce and Navigation of 1815 with Great Britain provides that, 'in case of illegal or improper conduct towards the laws or Government of the country to which he (a Consul) is sent, such Consul may either be punished according to law, if the laws will reach the case, or be sent back, the offended Government assigning to the other the reasons for the same'.

"The position of the Department in the present case is that, in its opinion, no illegal or improper conduct towards the laws or government of Great Britain has been committed and that the only evidence of guilt which the British Government has produced in support of its charges consisted of three unsigned statements which upon examination by the Department were not regarded as at all sufficient."

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[7] Senate Executive Document No. 35, 34th Cong., 1st sess., pp. 68–80.
[8] Not printed.
[9] *Foreign Relations*, 1922, vol. II, pp. 393 and 400.
[9a] See Department's telegram no. 812, Feb. 12, 1923, *ante*, p. 306.
[9b] *Foreign Relations*, 1922, vol. II, p. 397.
[9c] Not printed.

Department also made public circular instruction No. 865 of December 30 to consular officers,[10] transmitted to you in Dept. No. 786 Jan. 25,[11] together with following statement:

"In the course of the negotiations in regard to the action of the British Government in revoking the recognition of the Consul and Vice Consul at Newcastle, the suggestion was made that as a means of avoiding misunderstandings in the future in respect to the aid which consular officers of the United States and Great Britain should give to the merchant marine of their respective countries the two Governments issue identic instructions to their consular officers. The British Government in its note of December 27, 1922,[12] made the promulgation of identic instructions one of the conditions in the settlement of the Newcastle incident. The Department of State held that the question of identic instructions was a separate and distinct matter having no bearing on the settlement of the Newcastle incident, which settlement should be determined on the basis of truth of the charges preferred by the British Government against the two consular officers. It, therefore, declined to agree to a proposal for the issuance of identic instructions but indicated its willingness, after the Newcastle incident should have been disposed of, to discuss with Great Britain the conclusion of a consular convention defining the rights and duties of consular officers of the two countries.

"With a view to making clear the duties of consular officers of the United States in respect to American shipping, including Government owned vessels, and avoiding any occasion for misunderstanding in regard to the position of the United States with respect to the activities of consular officers in behalf of American shipping, a general instruction was issued to all American consular officers and in conformity with the frank spirit in which the discussions in regard to the Newcastle incident has been carried on with the British Government, a copy of that instruction was promptly handed to the British Embassy in Washington."

Above is sent you for your information only.

HUGHES

125.655/89 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *June 7, 1923—3 p.m.*

[Received 4:34 p.m.]

211. The city council of Newcastle-on-Tyne last night adopted a resolution urging the Government to come to a settlement with the United States that would secure the reopening of the American consulate there.

WHEELER

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[10] *Foreign Relations*, 1922, vol. II, p. 401.
[11] Not printed.
[12] *Foreign Relations*, 1922, vol. II, p. 404.

125.655/90 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *June 14, 1923—4 p.m.*
[Received June 14—3:12 p.m.]

224. My telegram no. 211, June 7, 3 p.m. In the House of Commons yesterday, in response to the inquiry of a Labor member, whether he was aware of the resolution recently passed by the Newcastle city council as to the reopening of the American consulate at that port and whether he could reopen negotiations to arrive at a satisfactory solution, the Under Secretary to the Foreign Office said:

"The Secretary of State has received the resolution referred to and is not only aware of but sympathizes with the sentiments which have inspired it. His Majesty's Government are fully prepared to reopen negotiations on this subject as soon as the United States Government show any sign of desiring to resume them."

WHEELER

125.655/95 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

[Paraphrase]

LONDON, *July 27, 1923—5 p.m.*
[Received July 27—2:55 p.m.]

323. In a conversation today Sperling[13] suggested the following method of settling the Newcastle-on-Tyne case: a note to be written by the Foreign Office withdrawing the charges against Slater and Brooks unconditionally and without prejudice on account of insufficient evidence; the American Government to announce on the same day, without referring to the withdrawal of the charges, that it will reopen the consulate.

Sperling says that he feels he can guarantee the acceptance by the Foreign Office of this solution.

WHEELER

125.655/96 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

[Paraphrase]

LONDON, *July 28, 1923—1 p.m.*
[Received July 28—9:15 a.m.]

324. My 323, July 27, 5 p.m. It is Sperling's suggestion that the announcement by the American Government take the form of a note from our London Embassy to the British Foreign Office.

WHEELER

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[13] R. A. C. Sperling, head of the American and African Department of the British Foreign Office.

125.655/95 : Telegram

The Secretary of State to the Chargé in Great Britain (Wheeler)

[Paraphrase]

WASHINGTON, *July 30, 1923—5 p.m.*

202. Your telegrams 323 and 324 of July 27 and 28.

The Department is willing to accept Sperling's proposal, provided the note from the Foreign Office withdraws without qualification the charges against Consul Slater and Vice Consul Brooks on the ground that they are not sustained by the evidence, and also provided that the publication by the Department of the Foreign Office note withdrawing the charges is not precluded by the publication of the note which it is proposed that the Embassy should send to the Foreign Office announcing that this Government intends to reopen the Newcastle consulate and presumably asking that a consul and vice consul be recognized. There should be a prior agreement as to the text of the two notes and the simultaneous publication of the notes should also be agreed upon.

HUGHES

125.655/97

The Chargé in Great Britain (Wheeler) to the Secretary of State

No. 2839 LONDON, *September 7, 1923.*

[Received September 18.]

SIR: With reference to my telegram No. 338 of August 1st, 5 p.m.,[14] *in re* a proposed solution of the Newcastle case, I have the honor to inform you that it is now suggested that the difference be settled by a simultaneous exchange of notes between the Foreign Office and this Embassy as follows:

From the Foreign Office to the Embassy:

Sir, I have the honour to inform you that after further consideration His Majesty's Government are prepared not to insist upon the charge of exceeding their Consular authority, laid about a year ago against the then American Consul and Vice-Consul at Newcastle-on-Tyne, and it has therefore been recalled.

I have the honour to be, with high consideration, Sir,

Your obedient servant,

(Signed) . . . . . .

From the Embassy to the Foreign Office:

My Lord: I am instructed to inform your Lordship that it is the intention of my Government to reopen the Consulate at Newcastle-

[14] Not printed.

on-Tyne, and I have the honor to transmit herewith the Commissions of Messrs. . . . . of . . . . . and . . . . . of . . . . . , both American citizens, as Consul and Vice-Consul, respectively, of the United States at that port, and to request Your Lordship to be good enough to take the steps necessary for their recognition in those capacities in case the appointments be found agreeable to His Majesty's Government.

I have the honor to be, with the highest consideration,

Your Lordship's obedient servant,

(Signed) . . . . . .

This exchange of notes to be simultaneously published on both sides. It is stated (though this would not be formally communicated) that if the matter is settled on this basis, while it is understood that our present nominees shall be other than Slater and Brooks, their record will be considered clean and that it is "most unlikely" that any objection based on this closed incident would be raised to their service in future in any other part of the British Empire. In this connection it is further stated that in case such objection should be laid, the Foreign Office would use its best efforts to bring about its withdrawal.

There has of course been no undertaking given on either side, but I am privately assured that if this arrangement be acceptable to you, the Foreign Office will accept it also.

. . . . . .

I have [etc.] POST WHEELER

125.655/97 : Telegram

The Secretary of State to the Chargé in Great Britain (Wheeler)

[Paraphrase]

WASHINGTON, *October 16, 1923—4 p.m.*

286. Your despatch 2839 of September 7 regarding Newcastle-on-Tyne case.

With the history of the case in mind, the Department has carefully considered the suggestion of an exchange of notes and is not inclined to offer technical objections to the language of the notes as proposed. You may so inform the Foreign Office.

You may also call the attention of the Foreign Office to the statement in the British note of August 28, 1922,[15] that it was the feeling of the British Government that the cases of which they happened to have information indicated a practice which on investigation might prove to be rather widespread and which was an unfair discrimination against British shipping interests. This statement called in

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[15] Not printed.

question the conduct of the whole American consular service. The Department knew that this charge was baseless but it made it imperative that the specific charges against Consul Slater and Vice Consul Brooks be carefully investigated and that the scope of the investigation should be broadened. If any proof were necessary, the result of this investigation proved to the satisfaction of the Department that there were no instances in which the irregular practices suggested were resorted to by members of our consular service.

It is the Department's belief that the only way to remove the unfortunate impression which Lord Curzon's charges made on the public mind would be the recognition of the appointment of Slater and Brooks to stations in the British Empire. In case the Foreign Office will give advance assurance that it will recognize the appointment of Consul Slater at Fort William and Port Arthur and of Vice Consul Brooks at Belfast, the Department is willing to accept the suggestion for the exchange of notes the texts of which are given in your despatch. When the recognition of the appointments mentioned above is arranged with the Foreign Office you may proceed with the exchange of notes and also request recognition for Charles Roy Nasmith as the new American consul at Newcastle-on-Tyne.

HUGHES

711.419/45 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

[Extract—Paraphrase]

LONDON, *November 3, 1923—2 p.m.*

[Received 6:22 p.m.]

485. Following from Ambassador Harvey at Southampton.

". . . Curzon was not available at the time I left London but I signed a letter [15a] setting forth your proposals respecting Newcastle consulate, which was delivered to the Foreign Office. . . . Unless they change their minds the result in the case will be satisfactory to you. Harvey."

WHEELER

125.655/107

The Chargé in Great Britain (Wheeler) to the Secretary of State

No. 3086 LONDON, *November 13, 1923.*

[Received November 24.]

SIR: My despatch No. 3038 of November 5, 1923, transmitted a copy of the Ambassador's private and confidential letter of No-

[15a] Not printed.

vember 2nd to Lord Curzon [16] respecting the suggested settlement of the Newcastle case.

On November 5th Mr. Sperling in a conversation at the Foreign Office told me that, much to his disappointment Lord Curzon appeared to have receded from the position he took in his last talk with Mr. Harvey and seemed now unwilling to agree to the appointment of Mr. Vice-Consul Brooks to Belfast at any time whatsoever, his idea being, as Mr. Sperling expressed it, that "he should be sent, if anywhere in the British Empire, to some inland post, rather than to a large port with a shipping activity similar to that of Newcastle".

I pointed out to Mr. Sperling that such a limitation in Mr. Brooks' case, so far from tending to remove the unfortunate impression made on the public mind by the allegation given currency a year ago reflecting on our whole Consular service, would appear to qualify the recall of the specific charge against him as set forth in the Foreign Office note that is a part of the suggested exchange. He said he quite realized this and for his own part heartily hoped that Lord Curzon's reply to the Ambassador's confidential letter above referred to might make possible the settlement on the lines laid down, although his mood had changed and he feared he would not waive the point.

. . . . . .

In view of the strong British commercial and shipping pressure that has been continually exerted here upon the Foreign Office for the adjustment of this case, and which is not likely to lessen, I am of the opinion that lacking further recession on our part Lord Curzon must eventually yield.

I have [etc.] POST WHEELER

125.655/112a : Telegram

The Secretary of State to the Chargé in Great Britain (Wheeler)

WASHINGTON, *December 13, 1923—5 p.m.*

380. For your information.

Following is pertinent part of Associated Press despatch from Newcastle, dated December 13, 1923:

"Fifteen months have elapsed since the Consulate shut its doors. Commercial delegations have made frequent trips to London to urge the Foreign Office and the American Embassy to hasten the re-opening. It is understood that the next move rests with Washington.

[16] Neither printed.

The only remaining condition for the re-establishment of the Consulate is believed to be the assignment of Consul Russell M. Brooks to a point within the British Empire other than Belfast, where it is understood the United States desires him to go. Ostensibly, Foreign Secretary Curzon takes the view that Belfast is too near Mr. Brooks old post, and to the United Kingdom. The deadlock between the two Governments is causing the loss of hundreds of thousands of dollars weekly to Newcastle business houses."

The Department to-day in reply to a press inquiry said that this Government has always insisted that the charges made by the British Government against Consul Slater and Vice Consul Brooks, formerly at Newcastle-on-Tyne, were unfounded and that action should be taken to remove the stigma placed upon these two American officials. It is impossible to reopen the Consulate unless this is done and up to the present time the British Government has not taken appropriate action. If it is taken the two officials will undoubtedly be appointed to posts within the British Empire where their services are needed and it is not anticipated that the British Government would have any objection to such appointments. It is expected that the United States will then reopen the Consulate at Newcastle-on-Tyne.

HUGHES

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN, SIGNED JUNE 23, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 4, 1908 [17]

Treaty Series No. 674

Agreement between the United States of America and Great Britain, Signed at Washington, June 23, 1923 [18]

The President of the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of extending for another five years the period during which the Arbitration Convention concluded between them on April 4, 1908, extended by the Agreement concluded between the two Governments on May 31, 1913,[19] and further extended by the Agreement concluded between the two Governments on June 3, 1918,[20] shall remain in force, have respectively authorized the undersigned, to wit: Charles Evans Hughes, Secretary of State of the United States; and Sir Auckland Geddes, G. C. M. G., K. C. B., His Britannic Majesty's Ambassador

[17] For text of convention of 1908, see *Foreign Relations*, 1908, p. 382.
[18] Ratification advised by the Senate, Dec. 18, 1923; ratified by the President, Dec. 28; ratified by Great Britain, Aug. 1; ratifications exchanged at Washington, Dec. 29; proclaimed by the President, Dec. 29.
[19] *Foreign Relations*, 1914, p. 303.
[20] *Ibid.*, 1918, p. 431.

Extraordinary and Plenipotentiary to the United States, to conclude the following Articles:

ARTICLE I

The Convention of Arbitration of April 4, 1908, between the Government of the United States of America and the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the duration of which by Article IV thereof was fixed at a period of five years from the date of the exchange of ratifications of the said Convention on June 4, 1908, which period by the Agreement of May 31, 1913, between the two Governments was extended for five years from June 4, 1913, and was extended by the Agreement between them of June 3, 1918, for the further period of five years from June 4, 1918, is hereby extended and continued in force for the further period of five years from June 4, 1923.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible.

Done in duplicate, this twenty-third day of June, one thousand nine hundred and twenty-three.

[SEAL] CHARLES EVANS HUGHES
[SEAL] A. C. GEDDES

711.4112/161

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *June 23, 1923.*

EXCELLENCY: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and Great Britain, April 4, 1908, and renewed from time to time, I have the honor, in pursuance of our informal conversations, to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The

Hague.[21] As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the British Government will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.] CHARLES E. HUGHES

711.4112/163

The British Ambassador (Geddes) to the Secretary of State

No. 523 WASHINGTON, *June 23, 1923.*

SIR: I have the honour to acknowledge the receipt of your note of today's date in which you were so good as to inform me, in connection with the renewal of the Arbitration Convention of April 4th, 1908, between Great Britain and the United States, that the President of the United States had proposed to the Senate the adherence of the United States, under certain conditions, to the Protocol of December 16th, 1920, creating the Permanent Court of International Justice at the Hague, and that, if the Senate assents to this proposal, you understand that His Britannic Majesty's Government would be prepared to consider the conclusion of an agreement, providing for the reference to the Permanent Court of International Justice of disputes mentioned in the Convention.

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs I have the honour to confirm your understanding of His Majesty's Government's attitude on this point and to state that if the Senate approve the President's proposal His Majesty's Government will be prepared to consider with the United States Government the conclusion of an agreement for the reference to the Permanent Court of International Justice of disputes mentioned in the Arbitration Convention.

I have [etc.] A. C. GEDDES

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[21] Vol. I, pp. 17 ff.

GREECE

WITHDRAWAL OF AMERICAN RELIEF ORGANIZATIONS FROM OPERATIONS IN BEHALF OF GREEK REFUGEES, AND FORMATION OF THE REFUGEE SETTLEMENT COMMISSION UNDER THE AUSPICES OF THE LEAGUE OF NATIONS[1]

868.48/351

The Chairman of the American Red Cross (Payne) to the Under Secretary of State (Phillips)

WASHINGTON, *February 19, 1923.*

DEAR MR. PHILLIPS: Herewith a copy of an important letter from Colonel Haskell, which you will read with interest. I call your especial attention to the last paragraph in which he advises that we cease our operations in June, and make early announcement of the fact. Prompt and earnest consideration should be given to this recommendation and a definite conclusion reached. If we do not withdraw, it is difficult to forecast a period when we may do so. If we withdraw, we may expect criticism from the churches and the Near East Relief. This would come at any time. Hence, our decision should be made firmly, having in mind the consequences, pro and con.

I will greatly appreciate your suggestions with a definite expression of your views.

Cordially yours,

JOHN BARTON PAYNE

[Enclosure—Extract]

The American Red Cross Commissioner for Greece (Haskell) to the Chairman of the American Red Cross (Payne)

ATHENS, *January 29, 1923.*

DEAR JUDGE PAYNE:

. . . . . .

It strikes me at present that we will not have to ask for an increase in the funds already allocated to this work, that is, the $3,000,000, unless it is desired to carry the assistance to these refugees beyond

[1] For previous correspondence regarding American relief activities in behalf of Greek refugees, see *Foreign Relations*, 1922, vol. II, pp. 414 ff.

the month of June. Personally I recommend that we get out of here in June at the latest, for the simple reason that the problem is going to drag on for years and unless we make a cut-off, the difficulty of withdrawal will increase with the length of time that we remain. Although I will not make any announcement of policy prior to hearing from you on the subject, nevertheless I recommend that as soon as the decision is taken to leave Greece that it be announced at once so that plenty of time will be given to the Greek Government and all others concerned to make their arrangements accordingly. I suggest that when the time comes to make the announcement, Wilkinson, who will shortly return to the United States, would be able to assist in the preparation of a statement with a good background of protection [*sic*] from the standpoint of the elements out here.

Hoping that the above will give you some additional information on the situation in Greece, and with best personal regards, I am [etc.]

WILLIAM N. HASKELL

868.48/351

The Under Secretary of State (Phillips) to the Chairman of the American Red Cross (Payne)

WASHINGTON, *February 28, 1923.*

MY DEAR JUDGE PAYNE: I have given careful consideration to your letter of February 19th enclosing a copy of a recent report from Colonel Haskell regarding refugee relief work in Greece and suggesting prompt consideration of the recommendation that the Red Cross cease its operations in Greece in June and make an early announcement of that fact. You have asked for my suggestions and a definite expression of my views on this point.

I quite agree that it is reasonable that a definite decision should be reached as soon as possible as to the date of ceasing emergency relief work in Greece and that an announcement of this decision should be made some time in advance of carrying it into effect in order to give the Greek authorities and other interested parties an opportunity to make suitable provision for taking over the work.

It is clear that the feeding of great camps of refugees cannot and should not go on forever. This summer, when climatic conditions will be most favorable for arranging for the distribution of the refugees, seems the logical and proper time for the Red Cross to terminate its emergency work.

The solution of the refugee problem cannot lie in endless charity or mass feeding in concentration camps—measures essential to meet

an emergency such as has obtained in the Near East—but in the disposition of the refugees in a manner to make them self-supporting as a part of the economic life of the country. While the Red Cross undoubtedly can help in this work, the primary responsibility for such a program would rest with the Greek authorities or with the governments of the territories where the refugees may eventually be located. To continue the mass feeding beyond the present summer might only tend to delay vigorous action to work out such a solution.

How far Greece may be in a position to absorb the refugees into the economic life of the country is a serious question, as is indicated not only by the reports of Colonel Haskell and Doctor Hill but by those which the Department has received. To effect this certain readjustments will certainly be necessary.

The question of the Armenian refugees is one of particular concern to this Department. Whether, in addition to the refugees of Greek race and religion, Greece will be in a position to care for many thousands of Armenians is questionable, and it may be important to look forward to plans for finding homes elsewhere for Armenian refugees now in Greece.

In his letter of January 29 Colonel Haskell has referred to the possible return of the refugees to their homes in Turkey.[2] While I agree that a normal solution of the refugee problem would be to send them back, as far as possible, to their homes and to the surroundings from which they have come, I fear that this will not be practicable in the immediate future, in view of existing political conditions and of the Convention between Greece and Turkey, signed at Lausanne on January 30th, which provides for the exchange of populations.[3] Article I of the Convention provides that refugees will not be allowed to reestablish themselves in Turkey or Greece, respectively, without the authorization of the Turkish or the Greek Government and Article VII indicates that the Greek refugees who have already fled to Greece will acquire Greek nationality with the signature of the Convention.

I have made this somewhat detailed summary of the refugee situation as it presents itself to the Department, with a view to suggesting the formulation of a plan for constructive action on behalf of the refugees at the time when the emergency relief work is terminated. The action which I would suggest is as follows:

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[2] The comments of Colonel Haskell on this point are omitted from the extract of his letter printed on page 318.

[3] For text of convention, see Great Britain, Cmd. 1929, Treaty Series No. 16 (1923): *Treaty of Peace with Turkey . . . together with Agreements between Greece and Turkey signed on January 30, 1923*, etc., p. 187.

(1) That the Red Cross should prepare a comprehensive report of its relief work in Greece and of its decision to terminate the emergency feeding of refugees on a certain date.

(2) That this report should be communicated by the Department to the British, French and Italian Governments at the same time as it may be made public in this country or furnished to the Greek authorities.

(3) That the Department should call the attention of these governments to the importance of early action to effect a more permanent disposition of the refugees and to find homes for the Armenian refugees for whom Greece may not be able to make provision.

I feel that this course of action might have the result not only of lending added force and publicity to the decision of the Red Cross to terminate its emergency work but also might lead to the adoption of some constructive program for the future.

If the Red Cross agrees as to the utility of such action and would be willing to assist if a program of constructive work for the disposition of the refugees were formulated, the Department would be glad to consult with you as to the method of carrying this proposal into effect at the earliest possible moment. Meanwhile I presume no publicity will be given to the proposed termination of American Red Cross activities in Greece.

Very sincerely yours,

WILLIAM PHILLIPS

868.48/387

The Chairman of the American Red Cross (Payne) to the Under Secretary of State (Phillips)

WASHINGTON, *March 1, 1923.*

MY DEAR MR. PHILLIPS: It seems incumbent on the American Red Cross to call your attention to the present situation in Greece. Since the end of September, the American Red Cross has been diligently occupied in dealing with the refugee situation there. The number of refugees driven into Greece from Asia Minor approximates one million. In cooperation with the Greek Government, the American Red Cross has been able to deal with this emergency. The refugees have been fed, have received blankets, clothing, medical and other necessary assistance. The cash expenditure in this behalf, aside from quantities of clothing furnished by the Red Cross Chapters, by June 30 will be quite three million dollars.

We are advised by Colonel William N. Haskell, Red Cross Commissioner for Greece, that the emergency problem, as such, will end

as the crops ripen. Since the American Red Cross is an emergency organization, and does not assume to deal with permanent conditions, he advises that we notify the Greek Government that on the 30th day of June, 1923, the Red Cross will withdraw.

By reason of the physical limitations of Greece and the situation developed or emphasized by the Lausanne conference, it seems our duty to call your attention to what appears to us a serious and perhaps a permanent situation. Greece has a population of substantially four and one-half millions. It cannot permanently absorb all the refugees. The treaty signed at Lausanne by Greece and Turkey provides that persons of the Greek orthodox religion now under the jurisdiction of Turkey shall be compelled to leave Turkey and move into Greece, and the Mohammedan population now living in Greece shall be likewise compelled to move from Greece into Turkish territory. We have no accurate knowledge as to the number of persons to be affected by this compulsory evacuation, but a considerable number is involved, and it is plain that this large number of people, both Greeks and Turks, will be rendered homeless. This involves not an emergency, calling for action by the American Red Cross, but a permanent situation involving a constructive program requiring huge sums of money, much in excess of the capacity of the Greek Government, and several years of time.

While we have no information indicating the number of Armenians included in the refugee body, it is probable that it reaches many thousand. Inasmuch as the Armenians are not attached to the Greeks by ties of kinship or language, it may be anticipated that the Greek Government will feel that it cannot accept the responsibility for the permanent absorption of this element into the Greek population. In this event, it would seem not improbable that Greece will look to other governments for help in resolving the Armenian problem.

In connection with the withdrawal of the American Red Cross not later than June 30th, may we suggest that the State Department take official cognizance of the situation and invite the cooperation of other governments and other agencies prepared to deal with a permanent program of reconstruction, to the end that these unfortunate people of all nationalities may be afforded an opportunity to live normal lives.

If such a plan can be worked out you may say that the American Red Cross will place all its facilities at the service of such a movement and will aid financially.

Cordially

JOHN BARTON PAYNE

868.48/392

The General Secretary, Near East Relief (Vickrey) to the Under Secretary of State (Phillips)

NEW YORK, *March 8, 1923.*
[Received March 9.]

SIR: Confirming our conversation of last Saturday, I submit herewith a copy of the Report of Near East Relief that has been presented to Congress for the calendar year 1922.[4]

Replying more specifically to the questions that were suggested in the course of our conversation, I submit the following statements:

1. *Total Relief Disbursements since 1915:*

The total relief disbursements in the Near East as shown by page 11 of the accompanying Auditor's Report, were $60,890,194.75. This Auditor's Report of cash disbursements, however, does not include flour secured through the U. S. Grain Corporation and the American Relief Administration, valued at $12,800,000. Nor does it include certain other contributions of clothing, commodities and medical supplies which would bring the total of relief disbursements under the general direction of Near East Relief in this area to December 31, 1922, to $82,266,548.38.

2. *Total Relief Disbursements for the calendar year 1922:*

The relief disbursements for the calendar year 1922, as shown on page 10 of the accompanying Auditor's Report, amounted to $11,649,695.32.

3. *Emergency Relief:*

As to the proportion of the above disbursements that may be classified as "emergency relief", we might, without serious inaccuracy, call all of it "emergency relief," since even our orphanage and child welfare work was originally caused, and during the past year has been greatly increased by war, evacuations, deportations, fire and other disasters wholly beyond the control of the helpless, and for the most part, innocent victims.

In a more restricted sense however, of the phrase "emergency relief", our work for the past year will divide itself into two almost exactly equal portions:

(*a*) Our so-called normal orphanage or child welfare budget would not exceed $6,000,000.

(*b*) The special emergency work resulting from the Smyrna fire and related disasters, the evacuation of the Cilician, Marmora and Black Sea ports, the feeding and care of refugees at Black Sea and Cilician ports and in transit

[4] See S. Doc. No. 343, 67th Cong., 4th sess.

from Asia to Greece, the transfer of children from our orphanages in Anatolia to Greece and Northern Syria, and other emergency expenses, resulting from recent military and political changes in the Near East, account for the additional expenditures of the year 1922, amounting to $5,649,695.32.

4. *Plans for immediate future—General Relief:*

As to plans for the immediate future, we would like to be relieved immediately of all responsibility in connection with adult refugee or general relief work.

The emergency relief work of the past few months has practically absorbed all of our reserve resources, in addition to the funds received in response to the special emergency appeal. We have not the resources with which to continue indefinitely, general refugee relief, and moreover, feel that it is a burden that should be borne by the responsible governments. We have at no time given relief to adult refugees if there was any prospect of securing the necessary food or shelter from government or other sources. Likewise, we have never given relief free of charge if there was any possibility of providing work for the destitute.

The situation, however, at Smyrna and on the islands of the Aegean, immediately following the Smyrna fire and later among the refugees from Anatolia, crowding into the Black Sea ports, Constantinople, the ports of Cilicia and North Syria, were such as to make self-support wholly impossible, and relief from the responsible government manifestly impracticable. Under these circumstances, our relief workers, with their organization covering the area for orphanage and child welfare work, felt there was no alternative but to extend their operations to the starving and the destitute, regardless of age or sex, though a disproportionately large number of the refugees were women and children.

As to the immediate future, we can possibly [, by] straining our resources, continue to give general relief for another two or three months, and as conditions are at present among the refugees in the Black Sea ports, Constantinople, Aleppo and Northern Syria, we do not see how we can refuse some general relief without practically pronouncing death sentence upon unfortunate women and children, who, for the most part, are innocent of any crime. We feel strongly, however, that this burden should be shifted to responsible governments, and we will probably be obliged soon to discontinue general relief from sheer lack of adequate private resources.

5. *Plans for immediate future—Orphanage or Child Welfare Work:*

Our policy with reference to the continuation of orphanage or child welfare work will, in part, depend upon the desires of our own government.

We feel that we now have a constituency and organization throughout the United States that will support us, if requested, in continuing our child welfare program, which, for the immediate future may involve a budget of approximately $6,000,000. per year, but decreasing gradually each year as the children leave our institutions or through the development of industrial relief, are brought to self-support.

This child welfare work at present, in addition to the children in refugee camps and concentration centers, includes 25,000 orphans who are now being cared for in Russian Armenia, all Armenians, and most of them of Turkish origin; 15,000 in Greece, of whom at least 10,000 are Armenians and therefore not properly a charge upon the Greek Government; 11,000 in Syria, of whom 10,000 are Armenians; and probably less than 5,000 in Northwest Persia, Constantinople and elsewhere.

So far as the financial burden is concerned, we can probably, with the continued cooperation of the American public, provide the necessary support for the orphanage and child welfare work if desired.

Most of these children, so far as we can ascertain, have no known responsible relative upon whom their support can be thrown, and most of them have no legal claim upon any government that is sufficiently sympathetic to accept responsibility for their support.

Aside from the humanitarian phases of this child welfare work, we see in it a strategic opportunity for the expression of American altruism and sending forth from these orphanages ambassadors of good will, industrial progress and international cooperation.

While willing to continue, for the present, the care of such orphans as cannot be returned to their relatives or otherwise provided for, we earnestly request that we be relieved at the earliest possible moment of all responsibility in connection with adult relief work.

May we respectfully suggest, that it may be desirable to draw two rather clear lines of demarkation in any analysis or proposed solution of the relief problem in the Near East?

1. A distinction may be made between,

   a) the refugees, Greek and Armenian, who are now in Greece, under friendly sympathetic government, and who at the present time are being cared for by the American Red Cross with some government cooperation, and

   b) the refugees, who, though driven or removed from their homes in Anatolia, are still on Turkish or Asiatic soil. These latter dare not return to their former homes; they cannot as yet find passage, welcome or a satisfactory haven in a foreign land. They are under the military control of a confessedly unfriendly government. They are legally citizens of Turkey, but practically without a country to

which they can look for sympathetic cooperation in regaining self-support.

It is evident that more time will be required to re-establish the second class, who are still on Asiatic soil, than will be required for the former on European soil, and it may be necessary to continue general relief in Asia for a somewhat longer period than will be necessary in Greece. In both areas however, general relief from America should be discontinued as early as practicable without unnecessary loss of life.

2. A distinction may be drawn between,

a) general or adult relief, and
b) orphanage or child welfare work.

Adult relief should certainly be discontinued as soon as any provision can be made for government aid or work to provide the necessities of life. Likewise the support of Greek or other orphans, who are on their native soil and under sympathetic government, should be transferred as rapidly as possible to the responsible government.

In the case of those orphans, however, who were born or whose parents were born in the Ottoman empire, and who therefore have no legal or national claim upon any friendly government, it does not seem equally practicable to throw their support upon foreign governments that have generously given them a haven of refuge, but which have no legal responsibility for providing for their continued work.

We assume that any statement given to the public concerning the discontinuance or the transfer of responsibility for refugee work in Greece, will be so phrased as not to jeopardize the continued financial support of such orphanage, child welfare and other apparently necessary phases of relief work in the Near East as may be approved by the Department, and possibly the statement can be made to assist materially such work.

We will be very glad to cooperate with the Department in any further consideration of solutions of this problem.

Respectfully yours,

CHARLES V. VICKREY

868.48/414A : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

WASHINGTON, *March 16, 1923—7 p. m.*

44. Department has received copies of telegrams from Constantinople representative of Near East Relief, from Haskell and from Julius Barnes[5] describing alarming condition of approximately

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[5] President of the Chamber of Commerce of the United States.

32,000 refugees in Constantinople. Department understands that Red Cross in view of its undertakings in Greece and agreement with Near East Relief does not desire to assume responsibilities in Constantinople area while A. R. A.[6] has no funds available.

Near East Relief reports that they are hardly in a position to make an additional cash appropriation for this emergency but will presumably authorize the use of any surplus available food stores.

Report briefly by telegraph on this situation indicating your views as to possible measures of relief and what assistance, if any, is being rendered by other than American relief organizations.

HUGHES

868.48/375 : Telegram

The Chargé in Greece (Caffery) to the Secretary of State

[Paraphrase]

ATHENS, *March 20, 1923—1 p.m.*

[Received 1:30 p.m.]

56. Haskell left Greece March 19 for Anatolia on an American destroyer to take up with Turkish authorities a proposal of Mr. Hoover[7] relating to American relief for Turkish devastated regions on condition that the Turks permit refugees in Greece to return to their homes in Turkey. This matter is being kept confidential in Athens and is not known to the Greek authorities.

CAFFERY

868.48/375 : Telegram

The Secretary of State to the Chargé in Greece (Caffery)

[Paraphrase]

WASHINGTON, *March 21, 1923—5 p.m.*

14. Your telegram no. 56 of March 20. Presumably Colonel Haskell's trip was made on his own initiative. Neither the Department nor the Red Cross was consulted. The object of the trip is possibly to make an investigation of the local situation in Turkey with a view to determining the policy of future relief work and the practicability of the repatriation of the refugees to their former homes. It is understood, however, that Colonel Haskell has no authority from the Red Cross, Mr. Hoover, or the American Relief Administration to make any proposals or commitments relating to the devastated regions in Turkey.

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[6] American Relief Administration.

[7] Chairman of the American Relief Administration.

Any steps which might be taken to help to effect a solution of the refugee problem would naturally be welcome to the Department and in the absence of more detailed information regarding the object of Colonel Haskell's trip it is not considered that any action by the Department is required.

Department wishes a prompt telegraphic report giving any information on this subject and also an expression of your views.

Department has informed High Commission at Constantinople of the foregoing.

HUGHES

868.48/414b : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

WASHINGTON, *March 24, 1923—3 p.m.*

50. Reports Department has received through Near East Relief indicate that Turkish authorities have ordered deportation to interior of 4,500 refugees now at Mersina, in case arrangements are not made for their immediate departure from that port.

See Department's 44, March 16, 7 p.m. regarding refugees in Constantinople and submit prompt telegraphic report regarding situation there and at other Turkish ports.

HUGHES

868.48/415 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *March 28, 1923—5 p.m.*

[Received 8:55 p.m.]

82. Department's 50, March 24, 3 p.m. The danger of deportations exists in Mersina as well in Black Sea ports, in case those ports become overcrowded with refugees and no means of evacuation in sight, but in spite of threats on the part of local authorities no deportations have occurred during the present exodus of Christians, and the report mentioned in the Department's above-mentioned telegram has not materialized. It is quite possible that these threats are made in order to urge the Greeks to send ships for these refugees. It is certain that these threats do have this effect upon the Near East Relief workers, working with the refugees. I have used my influence with the Angora Government and especially with Raouf Bey [8] to protect the Greek refugees, but I find myself at times em-

[8] President of the Turkish Council of Ministers.

barrassed by the changing attitudes of the Greek Government regarding exchange of prisoners and exchange of populations.

BRISTOL

868.48/417 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *March 29, 1923—3 p.m.*
[Received 6:05 p.m.]

86. My 82, March 28, 5 p.m. Destroyer at Mersina reports that local authorities state permission has been obtained from Angora to allow refugees to remain there until transportation becomes available. This revokes threat of death [*deportation?*] to the interior.

BRISTOL

868.48/382 : Telegram

The Chargé in Greece (Caffery) to the Secretary of State

[Paraphrase]

ATHENS, *March 29, 1923—11 p.m.*
[Received March 29—8:25 p.m.]

66. My telegram 63 of March 24.[9] Today Haskell returned from Angora. He very confidentially informs me that he saw Mustafa Kemal[10] there and also had a long informal talk with Reouf Bey regarding the refugee situation. Haskell says that the Turkish authorities absolutely refuse to consent to allow the refugees now in Greece to return to their former homes. The Turks say they will insist that the agreement for exchange of populations signed at Lausanne be carried out.

CAFFERY

868.51 Refugee Settlement Commission/13

The Secretary of State to the British Ambassador (Geddes)[11]

WASHINGTON, *March 31, 1923.*

EXCELLENCY: The problem presented by the evacuation to Greek territory of almost a million refugees has appealed to the humanitarian sentiment of all countries and has severely taxed the resources of the relief organizations which have been supported in their work by the generosity and initiative of the governments and peoples of

[9] Not printed.
[10] President of the Turkish National Government.
[11] The same, *mutatis mutandis*, to the French and Italian Ambassadors.

many countries. I am confident, therefore, that I correctly interpret the sentiment of those who are interested in this work in stating that the common objective is to find for the relief problem a solution which will be definite and constructive. It is with this end in view that I take occasion to call this subject briefly to Your Excellency's attention.

Deeply affected by the sufferings of refugees in the Near East, the American people, through the agencies of the American Red Cross and the Near East Relief, have been participating in relief work organized to meet the emergencies which have arisen in the Near East during the past few years and particularly to help to alleviate the acute suffering which followed the recent mass evacuations.

Immediately after the fall of Smyrna the American Red Cross and the Near East Relief organized relief work among the refugees under an arrangement between the two organizations, according to which the Red Cross assumed responsibility for the American relief work in Greece while the Near East Relief has cared for refugees in Turkey. Thus the Red Cross for the past five months has provided for approximately 868,000 refugees assembled in camps in various localities throughout the mainland of Greece and the Islands of the Eastern Mediterranean. At the present time more than 500,000 refugees are dependent entirely upon food supplies furnished by the Red Cross.

It is clear, however, that the feeding of great camps of refugees cannot and should not continue indefinitely. The solution of the problem can hardly lie in measures of temporary relief alone—though they are essential to meet an emergency such as has recently arisen in the Near East—but, rather, in such a disposition of the refugees as will enable them to be absorbed as promptly as possible into the normal economic life of the country where they find themselves.

The American Red Cross has therefore felt that a definite decision should be reached as to the date of terminating emergency relief work in Greece and that an announcement of this decision should be made well in advance of carrying it into effect, in order to give the Greek authorities and other interested agencies an opportunity to make suitable provision for the future. To postpone such action and to continue the mass feeding, in the opinion of those competent to judge, might only tend to delay vigorous measures for a more permanent solution of the refugee problem. The American Red Cross is therefore announcing the termination of its emergency relief work in Greece on June 30, 1923.

The Near East Relief is prepared, to the extent of its ability, to continue its child welfare work, including the support of 65,000

wholly dependent orphans now in its charge in the Caucasus, Greece, Syria and elsewhere, and to continue supplementary child welfare work for a larger number. But it is anxious to terminate at the earliest possible moment the emergency relief to adult refugees, of whom approximately 100,000 are now receiving relief from this organization.

The problem of finding permanent homes for the refugees is one, however, which is not within the scope of private relief agencies. It will require the cordial cooperation of the local authorities where the refugees may be situated, and of the Powers whose territorial and other interests in the Mediterranean area may make it possible for them to assist.

One phase of the question which is of particular concern relates to the future of the Armenians in the Near East, since it is a grave question whether Greece, in addition to the refugees of Greek race and religion, will be in a position to care for many thousands of Armenians. In the latter case it will be necessary to consider what disposition may be made of the Armenians who may have temporarily found refuge in Greece.

If a constructive plan can be worked out for an apportionment of the task and for the gradual solution of the refugee problem, American relief agencies will be ready to cooperate, even after the termination of the emergency relief work of the American Red Cross on June 30th, next.

In bringing these considerations to Your Excellency's attention, I take occasion to suggest that if His Majesty's Government be disposed to concur as to the desirability of coordinated action to liquidate the relief emergency in the Near East, an early exchange of views would be desirable.

A similar communication is being addressed to the French and Italian Governments, and the Greek authorities are being informed of the decision of the Red Cross to terminate emergency feeding operations in Greece on June 30th.

Accept [etc.] CHARLES E. HUGHES

868.51 Refugee Settlement Commission/18 : Telegram

The Secretary of State to the Chargé in Greece (Caffery)

[Paraphrase]

WASHINGTON, *March 31, 1923—5 p.m.*

17. See our telegram for Haskell quoting message from Payne.[12]

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[12] *Infra.*

In your discretion you may transmit to the Greek authorities the substance of the memorandum regarding relief work in the Near East presented to the British, French, and Italian Ambassadors in Washington today. The text of this memorandum is being telegraphed to you through our Embassy in Paris.

HUGHES

868.51 Refugee Settlement Commission/12 : Telegram

The Secretary of State to the Chargé in Greece (Caffery)

WASHINGTON, *March 31, 1923—7 p.m.*

19. For Haskell. From Payne.

"1066. You are instructed transmit substantially following message Greek authorities:

'With coming of summer and disappearance acute emergency conditions among refugees Amcross must prepare for withdrawal Greece. In order that ample time may be given Greek authorities for organization necessary measures we have set June 30th as date for closing operations. Prior that date Colonel Haskell with entire personnel will cooperate closely with Greek authorities in arranging such transfer of activities as will avoid interruption necessary relief operations.'

Caffery has State Department instructions this subject. Consult him before advising Greek authorities."

HUGHES

868.51 Refugee Settlement Commission/21 : Telegram

The Chargé in Greece (Caffery) to the Secretary of State

[Paraphrase]

ATHENS, *April 4, 1923—9 p.m.*

[Received April 5—5 : 40 a.m.]

70. Your telegram no. 17, March 31. Since it is now apparent that the refugees who have come to Greece must remain and since probably the convention between Greece and Turkey providing for an exchange of populations will be carried out, the proper future relief to be given in my opinion is financial aid in and foreign control of the settlement of Greek refugees on the properties which the Turks now residing in Greece will leave when they return to Turkey in accordance with the convention. . . .

CAFFERY

868.51 Refugee Settlement Commission/22

The Ambassador in France (Herrick) to the Secretary of State

No. 3008 PARIS, *April 6, 1923.*
[Received April 18.]

SIR: In accordance with your instructions, I handed yesterday to the Foreign Office a copy of your note of March 31st relative to relief work in the Near East.[13]

I expressed to M. de Peretti the deep interest of our Government in this problem and your desire to cooperate in reaching an adequate solution. M. de Peretti replied that the French Government was also greatly interested, but did not see what could be done; the French Government had already spent a great deal of money and was unable to spend any more under present financial conditions. He said that they had sent large numbers of these refugees to Syria and they were already as heavy a burden as the Syrian Budget could bear. He added that the Mediterranean littoral was saturated with refugees and that the efforts that have been made by the French to send some Russians to Brazil had not been very successful.

From the general tone of his remarks, I should judge that any initiative in this matter will have to be taken by our Government; at any rate so far as the French are concerned.

I have [etc.]

For the Ambassador:
SHELDON WHITEHOUSE
Counselor of Embassy

868.48/405a: Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *April 6, 1923—3 p.m.*

61. Cable information has been received by the Near East Relief that the Turks are trying to levy heavy consumption duties on food supplies sent by the Near East Relief for refugees in Constantinople. The press has also given wide publicity to similar reports and this has created a most unfortunate impression. The Department wishes you to make vigorous representations if the report is correct.

It would be hard to overestimate the effect of such action on public sentiment in the United States in view of the stories which have been received regarding suffering in Constantinople and of the fact

[13] Same as that transmitted to the British, French, and Italian Ambassadors on March 31, p. 329.

that popular subscription in America made available the relief supplies for which customs are apparently demanded. . . .

HUGHES

868.51 Refugee Settlement Commission/28

The British Ambassador (Geddes) to the Secretary of State

No. 272 WASHINGTON, *April 9, 1923.*

SIR: I did not fail immediately to communicate to His Majesty's Government the considerations set forth in your note of March 31st in regard to the liquidation of the refugee problem in the Near East.

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs I have now the honour to inform you that His Majesty's Government welcome the proposal made in your note for an exchange of views on this question and that His Majesty's Government will be glad to cooperate with the United States Government as far as possible with a view to working out some constructive scheme for the solution of this problem. Before taking further action in the matter His Majesty's Government will await the receipt of definite proposals from the United States Government.

I have [etc.] A. C. GEDDES

868.51 Refugee Settlement Commission/26: Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *April 9, 1923—5 p.m.*

[Received 10:35 p.m.]

182. Your 131, March 31, 6 p.m.[14] Pashalian of the Armenian delegation called this morning and left a copy of a note from Poincaré to the Armenian delegation dated March 12, 1923. In this note Poincaré stated that he had approached Great Britain and Italy asking them to associate themselves with Germany [*France?*] with a view to requesting the Council of the League of Nations to institute a special commission for handling the Armenian problem. Pashalian expressed the belief that England and Italy will concur in this suggestion and that the matter will be brought up at the next meeting of the League Council which opens April 15th.

He asked the Embassy to inquire whether the United States would cooperate with such a commission if it is set up or whether it would feel that this question should be handled in the manner suggested in your 131 as a part of the whole Near Eastern refugee situation.

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[14] Not printed; it transmitted copy of memorandum of Mar. 31 sent to the British, French, and Italian Ambassadors, p. 329.

The Armenian delegation is fearful that if the Allies will not accept the American plan for the solution of the refugee problem as a whole and if America will not work with a League of Nations commission nothing effective will be done by any one.

HERRICK

868.51 Refugee Settlement Commission/37

The Italian Ambassador (Caetani) to the Secretary of State

[Translation [15]]

WASHINGTON, *April 26, 1923.*

MR. SECRETARY OF STATE: By direction of Signor Mussolini, and with reference to the note which Your Excellency sent me under date of March 31st last,[16] I have the honor to assure Your Excellency that the Italian Government is ready to consider with the most benevolent interest the American proposal concerning systematic provision for the refugees from Asia Minor.

I welcome [etc.] CAETANI

868.48/439 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *April 27, 1923—11 a.m.*

[Received April 27—9:14 a.m.]

125. Department's 61, April 6, 3 p.m. and my 105, April 12, 4 p.m.[17] Red Crescent, Constantinople, has been authorized by Angora to pass Near East Relief food supplies through customs free of duty. Details being worked out now and satisfactory solution of difficulties most probable.

BRISTOL

868.51 Refugee Settlement Commission/38

The French Ambassador (Jusserand) to the Secretary of State

[Translation [15]]

WASHINGTON, *May 5, 1923.*

MR. SECRETARY OF STATE: My Government, to which I forwarded Your Excellency's communication of March 31 last [16] relative to the

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[15] File translation revised.
[16] See footnote 11, p. 329.
[17] Latter not printed.

refugees from Asia Minor, informs me that apart from the international agreement sought by the American Government, France, where labor is scarce by reason of the losses inflicted by the last war, especially labor in the fields, would be disposed to utilize a certain number of Armenian and particularly Greek refugees if the American committees having them in charge were in a position to defray their transportation.

Before doing this it would, however, be indispensable to have a few trial shipments of from 100 to 200 persons, consisting of single adults, a few families and orphans.

If those trial shipments of farm laborers at first should succeed, the shipments might be continued on a broader scale and France might shelter several thousands of refugees.

The elements constituting such shipments should, before embarking, be inspected from a sanitary and moral standpoint. This inspection, in which we should have a part, cannot be dispensed with, as if undesirable elements should come to France the shipments would have to be discontinued.

I shall be thankful to Your Excellency to let me know as soon as you can whether the American committees would agree to take action in the sense above indicated. An understanding should be reached at as early a date as possible so that the places and dates of shipment may be determined upon. According to the information held by my Government most of the refugees are now in Greece, Constantinople, and Aleppo.

Be pleased [etc.] JUSSERAND

868.51 Refugee Settlement Commission/42 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

[Paraphrase]

ATHENS, *May 17, 1923—6 p.m.*

[Received May 18—1:42 a.m.]

94. Colonel Haskell makes following recommendations:

1. The United States should not participate with League of Nations. The League's representative here, Colonel Procter, British, states that he is investigating how to solve refugee problem and administer funds from a contemplated loan of $50,000,000 which is to be raised on Greek security and approved by the League. Such an amount is excessive and probably America will be asked to contribute major part. The fund would be administered under British control. The representative here of the League is holding out prospects which are exciting the Greek authorities. The League's plan, which Haskell considers impractical, calls for the establishment of the refugees on land in Macedonia.

2. Haskell disapproves suggested movement of refugees to Russia because of lack of confidence in Soviet promises, uncertain political conditions in Russia, difficulty due to language differences, low percentage of refugee agriculture [*sic*], and poverty in Russia. The French proposal [18] is insignificant and negligible. The French would take only selected efficient refugees. This would increase difficulties by lowering the average quality of those who remained although it would give France a claim to have a voice in the solution.

3. The United States should not facilitate or suggest further transfer to Greece of Greek refugees now in Asia Minor. This is unnecessary and would create claim to have purely American relief here continued.

4. The interchange of populations is a theoretical solution. It means, however, misery for 500,000 Greeks who long to return to Asia and for an equal number of Turks now in Macedonia. This is an unnatural solution and its execution will be subject to abuse and much graft.

5. Haskell considers the return of the refugees to Turkey to be the best solution. He realizes the Turkish opposition but believes it might be overcome by united pressure of the powers at the Lausanne Conference, the offering of financial aid to Turkey during the period when the refugees are being reestablished, and other compensation to Turkey. In this way the removal of 400,000 Turks from Thrace and Macedonia as provided by convention for the interchange of populations would be avoided.

6. If the above suggestion is not accepted Haskell recommends that the contributing governments set up an international commission to investigate, to make recommendations as to a permanent solution and to handle the relief necessary until the restoration of peace makes it possible to consider definite solution. Within three months after peace is signed the commission should report to the contributing powers. Relief should be limited to necessary sanitation and a minimum supply of food and clothing. It is estimated that the work of the commission including relief will cost $500,000 a month beginning July 1. Haskell suggests that America assume at least half the total cost and insist upon an American chairman and control with no contact at all with the League of Nations. Nothing should change the decision to have Red Cross activities terminate June 30. There should be no consideration of an American loan for Greece either through European agencies or directly."

I am informed by my British colleague that Great Britain is awaiting a proposal from the United States and that he has received instructions to facilitate the investigations of the representative here of the League of Nations. The British Foreign Office approves the general scheme of relief recommended by the League's representative here. My British colleague also intimated that his Government would approve supervision by the League of Nations in putting into effect the exchange of populations.

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[18] See *supra*.

At present the League's representative is investigating the financial statement of the Greek Government, a copy of which I am sending by pouch.[19] I have received confidential information that the Greek Government is somewhat skeptical of obtaining money through the League.

My French colleague is indifferent in his comments.

I think it is the consensus of reliable opinion here that at present there are about 400,000 persons living in Greece who cannot be absorbed into the economic life of the country even with foreign initiative. I believe that except for emergency relief no American cooperation should be given to any measures which do not provide for suitable American supervision and a permanent solution of this problem.

Haskell is leaving for Moscow tonight. I understand that Caffery plans to reach Washington early in June. I have informed Lausanne and Constantinople.

ATHERTON

868.51 Refugee Settlement Commission/46

The Vice Chairman, Central Committee in Charge of Foreign Operations, American Red Cross (Bicknell) to the Under Secretary of State (Phillips)

PARIS, *May 23, 1923.*
[Received June 4.]

DEAR MR. PHILLIPS: The American Red Cross in Washington has just received a cable from our Commissioner in Greece, advising us that the Greek Government has formally requested the American Red Cross to continue relief operations several months, stating that the government is unable to undertake the care of the refugees until six months after the signature of peace. I presume that this request has also reached you. It was forwarded to me by cable and I have today sent the following cable to our Commissioner in Athens:

"Replying to your cable advise Greek Government impossible continue relief operation beyond June thirty but we are hopeful that substantial results may follow action American Government in presenting Greek situation to allied governments. Express our continuing sympathetic interest and belief Greece will succeed in extricating herself from present great difficulties."

I hasten to send you this correspondence in order that you may be informed of the fact that the position of the Red Cross has not changed in regard to the date of our withdrawal. It seems to us wise to stand firmly upon this point. If any project is brought for-

[19] Not printed.

ward as a result of the action of the State Department which calls for further action by the Red Cross the matter can be taken up *de novo* at the proper time.

I feel that it is important to make it necessary that Greece shall be made to feel her full responsibility in the circumstances. Our withdrawal should have a tendency to compel the breaking up of the concentration camps and a wider distribution of the refugees throughout the country. Without this breaking up no progress can be made toward the absorption of the refugees into the normal population or their establishment in self support. Possibly, too, the pressure of the full burden of responsibility for the refugees will have a wholesome effect on governmental policies.

I am on a hurried trip to Paris and am expecting to sail for home about June first. In the meantime any important communication from the Department relating to Greece or Constantinople or any other European situation may be directed as usual to our Washington office and will be forwarded in substance to me by cable.

Sincerely,

ERNEST P. BICKNELL

868.51 Refugee Settlement Commission/56 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *May 29, 1923—10 a.m.*
[Received 9:28 p.m.]

100. Legation's 94, May 17, 6 p.m.

Jean Parmentier, French citizen, accompanied by Doctor Stoppani, representatives of the League of Nations arrived in Athens 27th. Parmentier has informed me they are to report to the Financial Advisory Committee of the League on June 14th as to security Greece can offer for a refugee loan. He pointed out Morgan and Company had underwritten part of the League's Austrian loan and expressed confidence that Greeks in America and Egypt would subscribe to a similar loan to Greece, the revenues pledged as security to be controlled by an international [committee?] or by the League of Nations. He [is] apprehensive at times lest investors might discriminate against loan to the revolutionary government made without sanction of Parliament.

I am reliably informed that the Greek Ministers to Italy and France have reported no assistance from those two in refugee relief and that Foreign Office here expects little if any assistance from England.

ATHERTON

868.51 Refugee Settlement Commission/61 : Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *June 13, 1923—11 p.m.*

182. Under date of May 25th the Department received an informal communication from the British Embassy, reading as follows:

"On April 9th the Ambassador addressed a note No. 272 to Mr. Hughes to the effect that His Majesty's Government would be glad to co-operate with the United States Government in the matter of the refugee problem in the Near East and would await proposals from the United States Government as to some constructive scheme for the solution of this problem after the cessation of the work of the various American relief organizations.

"As nearly all the voluntary relief work now being conducted in Greece will shortly be terminated, you will appreciate that the matter is becoming urgent. I understand from the Foreign Office that proposals have been put forward to solve this problem by means of a loan to Greece, and that Greece is prepared to offer serious guarantees in return for such a loan. Besides this a comprehensive scheme of settlement and relief is being prepared by Colonel Procter, the Deputy High Commissioner for Refugees at Constantinople. This scheme, together with the question of a loan to Greece, will be considered by the Finance Committee of the League of Nations on June 15th next at Geneva.

"In view of the magnificent work already done by American relief organizations in connection with this problem and the great interest of the United States Government in this question, as shown by Mr. Hughes' note of March 31st last to Sir Auckland Geddes, my Government have suggested that I should informally enquire whether the United States Government would be disposed to consider sending a technical observer to attend the meeting of the Finance Committee in Geneva on June 15th next. Should the United States Government be disposed to cooperate in this manner, the presence of an American representative would be cordially welcomed by His Majesty's Government, etc."

In reply the Department has notified the British Embassy that Dolbeare is being instructed to proceed from Lausanne to Geneva in order to be present in a consultative capacity at the forthcoming meetings of the Finance Committee of the League of Nations insofar as these meetings relate to the question of emergency relief for refugees in the Near East.

Department therefore desires that Dolbeare should ascertain the exact time of the proposed meetings and should plan to be present.

[Paraphrase.] At an early opportunity Dolbeare should make a statement as indicated below. It is desired that this statement be made early in the meetings, preferably before the Procter plan or any other plans have been developed in detail as reports from Athens indicate that the basis of such plans is the hope that the brunt of

the work will be borne by American relief and finance as in the past. The Department feels that since America has carried the burden up to the present time others should now assume their full share of the responsibility for the future. [End paraphrase.]

Outline of statement to be made by Dolbeare follows:

(1) Appropriate reference should be made to the informal communication from British Embassy quoted above and to the Department's reply as indicating grounds for the presence of an American representative in a consultative capacity at the League meeting.

(2) See Department's written instruction to Bern April 14th [20] communicating text of note of March 31st to British, French and Italian Ambassadors [21] and Department's 137 May 14, 6 p.m.[20] summarizing their reply. Dolbeare may make reference to this correspondence and to the general work of the Red Cross and Near East Relief along the following lines:

"In a note of March 31st last the Secretary of State called to the attention of the British, French and Italian Ambassadors in Washington the work which was being carried on in the Near East by American relief agencies, particularly the Red Cross and Near East Relief. In Greece this refugee work has been carried on by the Red Cross practically single-handed and has constituted a serious drain upon the resources of that organization, which has been caring for approximately half a million refugees for the past eight months. Fully appreciating that this problem is one which a single relief organization should not be called upon to meet, the emergency stage of the work being over, the Red Cross, in order to give the Greek authorities ample time to make provision for assuming the direct supervision of the work, definitely announced on April 2 its withdrawal on July 1st. The note of the Secretary of State in bringing this fact to the attention of the Allied Embassies pointed out that a solution of the problem did not lie in measures of temporary relief. The reply of the British, French and Italian Ambassadors to the Secretary of State's communication of March 31st indicated their deep interest in the refugee problem and a willingness to consider proposals for systematized relief work. It was this Government's understanding that the present meeting was for the purpose of considering such a plan."

(3) Dolbeare may then state that he will submit for the consideration of his Government and for the information of the Red Cross and other interested relief agencies the details of any plan which may be advanced. He may then continue along the following lines:

"In view of the fact that in its reply to this Government's note of March 31st the British Government indicated that it would welcome proposals from the United States Government, he is authorized to

[20] Not printed.
[21] *Ante*, p. 329.

state that in case an approved plan of relief is formulated, Department is prepared to suggest that a commission representative of the interested governments or agencies be set up at Athens to assist in the realization of such a plan. Such a commission if established under these conditions could temporarily assist the Greek authorities to whom the American Red Cross will turn over the work of emergency relief on July 1st next, when these authorities will assume responsibility for the conduct of future relief operations.

To cover the cost of the functioning of this Commission, it would appear appropriate that the interested governments or agencies should contribute. The American Red Cross is disposed to appoint a representative and to contribute a fair share of the expenses of the Commission."

(4) Dolbeare should add

"the American Red Cross has indicated that upon the termination of their activities in Greece on June 30th, there will be left in the hands of the local committees supplies which will carry the feeding of the refugees possibly six weeks beyond the date of the Red Cross' withdrawal. It should be understood, however, that after the present supplies of the Red Cross in Greece are exhausted that organization will not be in a position to continue its program of relief during a period of time which might be consumed in reaching a conclusion regarding the solution of the refugee problem."

[Paraphrase.] Department's telegram 151 of May 26.[22] Dolbeare should avoid any discussion at Geneva of the 1918 Credit to Greece but should carefully report any information or comment on this subject at the meeting.

Repeat to Legation in Greece as our No. 32 for its confidential information. [End paraphrase.]

HUGHES

868.51 Refugee Settlement Commission/64 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *June 15, 1923—6 p.m.*
[Received June 15—3 : 40 p.m.]

428. Department's 182, June 13, 11 a.m. First meeting of Finance Committee of the League of Nations will be held June 21st. I have written a letter to the president of the committee in which I refer to the suggestion made to the Department of State that Dolbeare is ready to attend the meetings insofar as they relate to emergency relief.

GREW

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[22] Not printed.

868.51 Refugee Settlement Commission/69 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *June 23, 1923—8 p.m.*
[Received June 24—12:55 a.m.]

453. From Dolbeare:

Department's 182, June 13, 11 p.m. Two meetings of Finance Committee were held June 22nd and one this morning. At first meeting I made at outset a statement in sense of Department's instructions. After hearing Parmentier's report, and examining various aspects of the problem, subcommittees were named to report on:

1. Whether the assets and revenues offered by Greece constitute effective securities.
2. For how large a sum would they constitute suitable security.
3. How shall the revenues be controlled. This morning the three committees reported.

First committee stated that satisfactory assurances must be obtained on the following:

(*a*) That engagements now entered into be considered binding.
(*b*) That the Lausanne treaty definitely assign the new territories to Greece without encumbrances which eat up all the revenues therefrom.
(*c*) That balance of budget be established in near future; that there be no inflation; reduction of expense, particularly of military character.
(*d*) That release of veto power provided in 1918 loan agreement [23] be obtained from United States, Great Britain, and France.

In first meeting president of committee asked all three representatives regarding 1918 agreement. French representative stated agreement had virtually lapsed although not formally terminated. British stated they would not use veto if other Governments did not. I stated: "I regret I have neither information nor authority to reply to your question relating to the 1918 agreement." In reply to inquiry whether I could transmit question to my Government, I answered: "I will report that question. I doubt whether the short period during which committee holds meetings will permit of a definite reply." Private conversation with French and British members is reported in separate telegram.[24]

The second committee reported that financial situation would require Greece either to restrict list of pledges, devoting others to a

[23] Not printed; see *Greek Debt Settlement:* Hearings before the Committee on Ways and Means, House of Representatives, 70th Cong., 1st sess., on H. R. 10760 (Washington, Government Printing Office, 1928), p. 51.
[24] Not printed.

general loan, or adopt inflation thus depreciating value of securities. They concluded a small loan for refugees was all that could be done now. When pressed they estimated that four or five millions sterling would be limit.

The third committee accepted suggestion of Procter that control be in a commission to consist of two members named by League, two others named by Greece and a president named by League. They could elect a technical director. The third committee, however, devoted most of its report to a new scheme, which originated with Ter Meulen, the Dutch member. He states emphatically (and his views seem to carry weight) that bankers will not now accept any sort of a loan to Greek Government. He proposes, therefore, that:

1. A private company be formed similar to Crédit National de France.
2. Its capital shall be £500,000 sterling subscribed by Greek banks (one-tenth to be immediately available) and also agricultural lands to be ceded by Greece.
3. This company will be authorized to loan shares on these holdings to amount of £5,000,000 sterling. Subscribers to be guaranteed by banks, and these in turn credited to Greek Government which would guarantee service and authorization. To this end Greek Government would assign revenues to be controlled by international finance commission.

This plan found favor and is now being considered. Its advantage is that it includes the Greek bankers, who would later be useful influence if Greek Parliament not inclined to ratify acts of present Government. The disadvantage is that it is difficult to ensure that the funds be applied strictly to work envisaged. League seems reluctant to take any active part in administration of private companies. Solution is perhaps to be found in suitable statutes and right of a League representative to veto any departure from them.

It is estimated that this plan might provide for 100,000 families or about half of the refugees. Committee admits this does not solve whole problem, but states their particular task was to find money. They said they hoped the American organizations would do what they could during the intervening period. I said I could make no promises: The Red Cross would leave some supplies, but was withdrawing personnel and would hand over on June 30th as stated. I added that Near East would continue to take care of its orphans but for this very reason could not make other engagements.

Department will understand that financial committee does not deal with the whole problem which will be considered by special subcommittee of Council to which the financial group reports.

GREW

868.51 Refugee Settlement Commission/70 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 25, 1923—8 p.m.*
[Received 9:12 p.m.]

462. Following from Dolbeare:

League Finance Committee in meetings of June 24 adopted a report which accepts in substance the Ter Meulen plan described in my 453, June 23, 8 p.m. In the organization as now suggested there would be representatives of the Greek Government and of the Greek banks which guarantee the loan and also two foreigners, one nominated by the International Finance Commission and one by relief organizations. The League Secretariat raised a good deal of opposition regarding the possibility of profit making. The British and Dutch members, on the other hand, insisted that collecting money was the principal task and that the plan must envisage a sound business scheme.

The feeling was that there can be no further action until the Greek Government and Greek bankers are consulted. Already an official message has been sent to Greece asking that a delegation be present at Geneva when the Council takes up the plan July 2. At the same time there will be a meeting of the Finance Committee. I stated in answer to an inquiry that I was not prepared to state whether it would be possible for me to attend. As technical questions will be discussed I suggest that some one better equipped should be sent. A member of the unofficial delegation to the Reparation Commission might make a useful delegate.

I have reported only to the Department in view of the pessimistic remarks regarding Greek credit.

GREW

868.51 Refugee Settlement Commission/72 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *June 26, 1923—10 a.m.*
[Received June 26—9:38 a.m.]

463. Following repeated to Department as Athens' 108, June 25, 7 p.m.

"Reference my 104, June 19, 5 p.m.[25] Haskell returned today and recommended: first, no affiliation with League; second, no announcement of possible help to Greece until after investigation of commis-

[25] Not printed.

sion which should make clear at beginning that any assistance will depend on whether Greece will use her resources to meet her obligations as determined possible by such commission; third, with American Red Cross stocks left over and great improvement in exchange and excellent crop prospects, Greek authorities can meet her needs including refugees until say November; fourth, important that Greek Government should immediately assume the responsibility heretofore carried by American Red Cross and set up necessary machinery. Any announcement tending to delay this or encourage procrastination with hope foreign assistance would be highly unfortunate; fifth, believe a few months facing realities by Greeks unaided best means determining net amount, if any, assistance from outside sources; sixth, therefore, commission should commence activities September at earliest; seventh, considerable harm already done by extravagant promises of loans and relief by various foreigners, especially Americans considerably delaying Greece from seriously attacking its own problems. Atherton."

GREW

868.48/526 : Telegram

The Secretary of State to the Chargé in Greece (Atherton) [26]

WASHINGTON, *June 27, 1923—1 p.m.*

38. Near East Relief indicates desire terminate at earliest possible moment emergency feeding for adult refugees in Black Sea area, Constantinople and Mersina. Report what progress, if any, regarding the transfer of these refugees to Greece.

Repeat to Constantinople as Department's 120.

HUGHES

868.51 Refugee Settlement Commission/85 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 30, 1923—1 p.m.*

211. Deliver this telegram immediately to Logan.

Dolbeare, acting under the Department's instructions, attended the meetings of the League Finance Committee June 22, 23, and 24 in a consultative capacity. At these meetings plans were considered for financing possible relief measures in behalf of the refugees in Greece. It is understood that meetings of the committee are to be resumed July 2 in Geneva. The Department wishes you to attend the forthcoming meetings unofficially in view of the technical character of the financial questions which are to come up for discussion.

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[26] See last paragraph for instructions to repeat to Constantinople as no. 120.

1. You should consult Paris Embassy and make yourself familiar with the problems involved in respect to the agreement of 1918 for a loan to Greece (reference our telegram 213, May 26 [27] and documents mentioned therein, copies of which are also available in the files of the Special Mission at Lausanne).

2. Get in touch with Grew at Lausanne to find out just when the commission meets and arrange for a preliminary consultation so as to make yourself familiar with the instructions which Dolbeare received and also the matters which the committee discussed at its earlier meetings.

3. Your attention is invited to the provision in the 1918 loan agreement with Greece that no new security can be given for an external loan without the consent of the American, British, and French Governments until the loan made under the 1918 agreement is repaid. As the American Government wishes to facilitate in any reasonable way any feasible measures for raising money to provide for the refugee situation, if France and Great Britain are disposed to do likewise, it is ready to join with these powers in giving consent, under appropriate conditions, to allow Greece to pledge new security for this purpose.

4. The British and French representatives indicated to Dolbeare at the earlier meetings of the Finance Committee that they desired to end the 1918 loan agreement. The Department believes that this might well be done at the same time that the United States, Great Britain, and France give their consent to the pledging of new security to secure funds for refugee relief. However, it is most important not to have the coincident termination of the 1918 loan agreement discussed in open conference but that you and the British and French representatives should together work out a formula for ending this agreement. Before committing yourself you should submit this formula to the Department for its consideration.

The American Government does not plan to make any further advances under the 1918 agreement in view of all the circumstances. This Government understands that the British Government does not contemplate any further advances, and that France, which has made no loans under the agreement, has no intention of making any.

5. If a loan is contemplated in connection with plans for financing relief work in the future, there would be no objection in the Department's opinion to raising a part of this loan in the United States if the successful termination of the Lausanne Conference should give a reasonable assurance of peace in the Near East and should American bankers be interested in having a part in such financing. The Department would not object to your cooperating informally with

[27] Not printed.

the committee and with any American bankers to whom a share in the relief loan might be offered.

6. If it is proposed to establish a commission to aid in putting into effect the plans for meeting the refugee problem in Greece, the Department would be ready to arrange through some appropriate agency for American representation. Dolbeare has already indicated to the Finance Committee this willingness on our part.

7. It is difficult for the Department with such information as it has to give you more detailed instructions before you have attended the meeting and given us your views. The fact that the Government of Greece has not as yet been recognized greatly complicates the situation. It is presumed that any action with respect to the release of Greek security, the termination of the 1918 loan agreement, or possible raising of a loan in the United States would be contingent on such recognition and would take effect when such recognition is granted. This is a point upon which it is particularly important that you obtain and telegraph to the Department the view of the Allied representatives. Are they ready to proceed without regard to recognition and if so how would they enter into arrangements seemingly requiring formal approval by a recognized government in Greece.

8. The Department is also sending this telegram to Paris and if for any reason Logan cannot attend the meeting Dolbeare is instructed to attend and to carry out the Department's instruction.

HUGHES

868.48/539 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *July 3, 1923—noon.*
[Received 12:30 p.m.]

111. Your 38, June 27, 2 [*1*] p.m. I am informed Government contemplates transfer to Greece of refugees in question after signing of peace.

ATHERTON

868.51 Refugee Settlement Commission/90 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *July 6, 1923—9 a.m.*
[Received July 7—10:20 a.m.[28]]

315. From Logan:

First. Attended committee meeting Geneva, July 4th. Returned Paris today.

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[28] Telegram in four sections.

Second. Reference paragraph[s] 3 and 4, my Lausanne cable July 4th:[29] Financial subcommittee proposed that committee make following recommendations to League Council briefed as follows:

"Committee opposed organization private land company formed on share capital and limited profit-making basis recognizing that, while such plan promised business management more attractive to lenders, it gave no assurances that bulk refugee problem could be handled. Obviously land settlement company organized on purely business lines would pick only best refugees leaving balance untouched, and might exploit settler unreasonably, which case League subject to criticism for organizing."

In view foregoing, committee recommended following plan:

"1. A refugee settlement society (not on share capital basis and not profit making) to be incorporated consisting of one representative relief societies, an American, as chairman with casting vote, two representatives Greek Government and one representative League, such society to direct work essentially productive in character (principally though not exclusively land settlement) the proceeds serving as additional gage for loan.

2. Greek Government to assign suitable land not less than 500,000 hectares which property vested in society until liquidation whole scheme when any balance of assets society not disposed returned to Greek Government.

3. Greek Government to arrange with Greek banks to underwrite not less than £1,000,000 sterling of loan and this to precede negotiations with external banks and to be done during the month of July.

4. Greek Government to assign and place under control existing International Finance Commission gages to be selected in detail after negotiations with Greek banks to be some 25 percent in value of gages declared as available by Greek Government. The Government undertaking to use the whole of the remaining revenues proposed as gages either for payment external obligations or as basis subsequent loan or loans for the purpose of reestablishing Greek financial position so as to prevent depreciation of drachma and consequently value assigned revenues.

5. On the basis loan amounting in effective yield to not less than £3,000,000 and not more than £6,000,000 sterling to be negotiated before the end of August by Greek Government on understanding that entire proceeds to be handed over to refugee settlement society.

Under foregoing circumstances League would declare itself satisfied with conditions of loan and expenditure arrangements and permit following statement to appear in prospectus:

A. That nature, control, securities in League's opinion satisfactory and that, while League would not engage financial responsibility to its members, nevertheless, League's financial advisers consider that, if Greek Government pursued financial and general policy such as to avoid serious depreciation of

[29] Not printed.

drachma, revenues assigned offered reasonably stronger security of contemplated loan.

B. That League prepared to appoint a member refugee settlement society and considered composition that society such as to secure the funds would be used solely in use refugee primarily for productive work and that expenditure would be properly and competently controlled."

Third. Committee's report stated advantages of foregoing scheme as follows:

"A. League's close association and consequent responsibility would be taken by lender to give him more chance international pressure in case repudiation and [omission] confidence proper administration of funds.

B. Scheme assure use of funds in the interest of refugees.

C. Scheme probably such as to appeal to American relief societies."

Fourth. Committee's report stated disadvantages of the foregoing scheme as follows:

"A. League would have appearance of certifying securities as good to investor, notwithstanding major factor their value, viz, financial policy Greek Government outside control. In case repudiation League might be unable to intervene and in case depreciation securities almost certain unable to do so. In either of the foregoing cases League would incur odium.

B. League would have heavy responsibility in case inefficient or dishonest use of funds."

Fifth. Committee's report stated as general notes:

"A. Clear that sums mentioned not sufficient unless supplemented by very large charitable assistance by American and other societies. On the other hand plan constructive one which might encourage these societies to continue.

B. Greek Government would be told that reserve as to Greek financial policy which League bound to demand in prospectus rendered much less serious if Greek Government able at the time of loan to make statement showing that it was reducing expenses, e.g., by demobilization, and had definite plan calculated to secure budget equilibrium in the near future.

If Council approves scheme, committee recommend it should not be published but given officially and confidentially by Council to Greek Government as statement of methods and conditions of cooperation of League.

Next step would be for Greek Government to arrange with Greek banks to underwrite specified part of loan and then to negotiate for similar underwritings for balance by external banks. If Greek Government able to arrange loan, in the opinion of Council, its next meeting end of August refugee settlement society could be formed or completed by addition League members.

An essential basis plan is hope of inducing relief societies, particularly American, to continue their work both during interval in which loans being negotiated and afterwards for relief such refugees

as not possible to deal with immediately under scheme for land settlement and industrial absorption".

Sixth. Foregoing scheme approved by committee and subsequently by League Council and transmitted to Greek Government July 5th. I took no part in formulating or discussing foregoing plan. However, before adoption, I pointed out Secretary's letter of March 31 appeared to preclude hope such substantial continued charitable relief from American sources as evidently contemplated in committee's report.

Seventh. Robert Cecil [30] who is largely responsible for plan, announced during meeting that he had discussed plan with Venizelos and the latter prepared support it and of opinion that at least £1,000,000 sterling could be underwritten this month by Greek banks. Obvious difficulty in plan as affecting foreign underwriting is power of existing revolutionary government to transfer land titles and to obligate necessary gages committee. Appreciated this difficulty but deemed it best to ignore such phase this stage and allow the question to rest until after £1,000,000 sterling Greek bank underwriting effected, assuming that question would arise and adjustment forced when foreign underwritings undertaken.

Eighth. After committee had approved plan I again called attention to Secretary's letter March 31, stating it [was] apparent practical working out any refugee settlement plan entailed an extended interval of time during which refugees would have to be supported by charity and asked how proposed handle this situation. Committee held obligation rested exclusively on Greek Government and that continued drachma inflamation [*inflation?*] incident to Greek military mobilization could be terminated by demobilization under which conditions ample funds available to care for refugees without necessity further inflation—however suggestion made and adopted that committee with Nansen at its head be set up to consider means of aiding Greek Government in caring for refugees. Such committee in addition to Nansen as president and as representative European relief agencies would include representative Greek Government and representative of American relief agencies if latter elected to nominate one. I agreed to transmit invitation to American relief agencies but made no commitment. If policy of our relief agencies is to continue Greek refugee work on limited program, feel best results obtained if latter agencies designate some agent now Europe to get into touch with Nansen at Geneva by telegraph; on the other hand if policy is definite withdrawal, the invitation should be declined. Request early instruction as to reply to this invitation.

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[30] British representative on the Council of the League of Nations.

Ninth. As plan for refugee settlement society now confidentially before Greek Government and dependent on latter's acceptance conditions, no invitation as yet transmitted for nomination proposed American chairman refugee settlement society. Question as to whether American relief agencies will elect to nominate such chairman provided necessary underwriting loan successful one broad policy outside of my purview. Every chance that after acceptance plan by Greek Government project will not interest outside investors for in view of political and other risks investment feature not particularly attractive. However, if loan succeeds and relief agencies elect appoint chairman task and responsibility such office deserve most competent presumptive business talent.

HERRICK

868.48/553 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *July 10, 1923—4 p.m.*
[Received July 11—3:15 a.m.]

185. Referring to my telegram no. 146, June 4, 3 p.m.,[31] and Department's telegram no. 111, June 13, 2 p.m.,[31] and 120, June 30, 9 p.m.[32] There have been no general movements of refugees for the past two months. A few refugees able to pay their own way have arrived in Constantinople and likewise departed. The health conditions amongst refugees in Constantinople and Anatolia is much better. In Anatolia there is practically no sickness and there is no typhus nor smallpox here in Constantinople and the last week in June there were only 48 deaths. The number of refugees in Constantinople, on the Pontus coast and at Mersina is practically the same.

From Colonel Haskell direct I am informed that the Red Cross closed their operations on June 30th last, but had previously distributed rations to the refugees that would be sufficient in some cases for a month and other cases two months, while a very small amount of clothing and child-feeding supplies were left to be distributed by local authorities. Thus, though the Red Cross closed out in Greece, it has provided relief for a month or six weeks longer.

Information has just been received that ships have been sent to Mersina to take away all Greek refugees at that place and then the Near East Relief will close out all work at Mersina. A destroyer will be sent to assist in this evacuation.

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[31] Not printed.
[32] See footnote 26, p. 346.

In the Pontus area the Near East Relief is rendering the only relief for the refugees. In Constantinople the Near East Relief is giving the greater part of relief to the refugees, but a very important minor part is being carried on by the League of Nations assisted by funds appropriated from the All British Appeal Committee. If these relief activities are withdrawn from the Pontus and Constantinople, the refugees would undoubtedly perish of hunger and disease.

The sending of Greek vessels to evacuate the Greek refugees from Mersina is the beginning of the evacuation which it is hoped will continue to Constantinople and the Pontus. The Near East Relief should continue its feeding and relief work with these refugees but only on the understanding that the Greek Government will continue and complete the evacuation of the refugees and within a definitely limited time. The League of Nations has inaugurated a scheme for feeding camps and settlements in western Thrace by which refugees are being grouped in organized communities and engaged in productive labor. This is a constructive work which should be expanded. I recommend that pressure should be brought to bear on the Greek Government to extend this work and to evacuate the refugees now in Constantinople and the Pontus area as soon as possible and at the same time the Near East Relief should serve notice that they will close down all relief operations unless the Greek Government will adopt such a constructive policy and evacuate these refugees. . . .

BRISTOL

868.51 Refugee Settlement Commission/100 : Telegram

The Secretary of State to the Ambassador in France (Herrick)[33]

WASHINGTON, *July 17, 1923—5 p.m.*

287. For Logan. Your 315, July 6, 9 p.m. [*a.m.*] Point 8.

(1) A telegram received from the Legation at Athens, under date of June 25[34] reported Haskell's recommendations to the effect that with the American Red Cross stores left over and with the great improvement in exchange and the excellent crop prospects the Greek authorities could meet the refugee situation until about November, that it was time the Greek Government should immediately assume the responsibility heretofore carried by the Red Cross and set up the necessary machinery and that any announcement tending to delay this or to encourage procrastination with hope of foreign

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[33] See last sentence for instructions to repeat to Lausanne, Athens, and Constantinople.

[34] See telegram no. 463, June 26, from the Special Mission at Lausanne, p. 345.

assistance would be highly unfortunate. Haskell added that he believed that a few months facing realities by the Greeks unaided would be the best means of determining the net amount, if any, of assistance from outside sources which would be necessary, that any Commission should commence its activities by September, at the earliest, and that considerable harm had already been done by extravagant promises of loans which had kept Greece from attacking its own problems.

(2) Haskell's report as well as the telegrams from you and Dolbeare lead to the belief that it is desirable to place upon Greek authorities or bankers the responsibility to take the initiative in dealing with the immediate future, in acting on the proposals of the Finance Committee or in suggesting an alternative course of action and indicating what resources they themselves are willing to put into this work (see your Point 7). If the hope of an early peace in the Near East is realized, as now seems likely, the Greeks should be able to devote additional energy and funds to the settlement of the refugees.

(3) The Department has consulted the Red Cross with regard to proposed Nansen Committee mentioned in Point 8 of your telegram. The Red Cross is of the opinion that the formation of this committee at the present time might tend to encourage the Greek authorities in the false hope that others would solve the refugee problem for them and might deter them from the vigorous action which is necessary in order to break up the refugee camps and settle the refugees in Greece to the limit of the country's capacity.

(4) While Department would not wish to oppose in any way the formation of Nansen Committee if others should deem it desirable, you may orally communicate to the proper authorities that the American Red Cross, for the reasons above indicated, does not desire to be represented on the proposed Commission.

(5) In sending the above the Department has not overlooked the point which was included in the instructions given Dolbeare (see Department's 182, June 13, 11 p.m. to Lausanne, paragraph numbered 3) and in its telegram to you of June 30, 1 p.m. (paragraph numbered 6) namely that it would be disposed to arrange for American representation on a commission to assist the Greek Government in its refugee relief work. You will recall however such representation was contingent upon the formation of an approved plan of relief and to assist in realizing such a plan. In this connection the Department has emphasized that the American Red Cross which has borne the brunt of the relief work in Greece is not in a position to continue this emergency work and gave notice of its withdrawal more than three months ago, thus giving ample time for substitute measures to

be adopted. Further it has consistently been pointed out that the future course of action of American agencies would be greatly influenced by the disposition of other Powers or agencies to make substantial contribution to the work of relief.

(6) With regard to your Point 8 and reference to policy of relief agencies, Department understands that the withdrawal of Red Cross from emergency relief work in Greece is complete and that Near East Relief plans to carry on its orphan program but not adult feeding or relief.

(7) It would appear that the only immediate hope for the raising of funds lay in action by the Greek bankers in connection with the Refugee Settlement Society or the purchase of bonds to be issued by the Greek Government, the proceeds of which loan should be applied for relief. There is a further possibility, but not probability, that a loan might be set up which would interest outside investors. In view of the difficulties which you point out, the placing of a loan with outside investors would seem very unlikely. If the Greek bankers act to provide money in any way, it would seem natural and reasonable that Greek bankers should control expenditure of money. If bankers desire to employ an American chairman to administer work for them they should do so on their own initiative. The Red Cross feels that if it should nominate a chairman, it would take great responsibility, and, if funds gave out, such chairman could hardly divorce himself from his position as its nominee, which might place the Red Cross in the position of being blamed for discontinuance of relief.

(8) The Department would be glad to be informed at an early date of any further developments with regard to the organization of the Refugee Settlement Society described in your telegram and as to the action which the Greek bankers may have taken to facilitate the underwriting of any such scheme. Also submit your comments on this telegram. Repeat Lausanne as Department's 241, Athens as Department's 41, Constantinople as Department's 134.

HUGHES

868.51 Refugee Settlement Commission/101 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *July 17, 1923—6 p.m.*
[Received July 17—2:58 p.m.]

326. From Logan:
Reference your 275, July 10.[85]

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[85] Not printed.

First. League urgently requests information as to appointment American relief agent with Nansen's committee referred to eighth paragraph Embassy's 315.[36] Advised Greek Government prepared contribute 10,000,000 ebers [*drachmas*] per month towards maintenance refugees.

Second. Greece has accepted League's plan for organization refugee settlement society, described second paragraph Embassy's 315. Governor Bank Greece advises Greek banks already underwritten £1,000,000 sterling proposed plan. He now in touch with London banks and optimistic obtaining £2,000,000 sterling subscription that source. Then will negotiate with American bankers in endeavor to obtain £2,000,000 sterling additional.

HERRICK

868.51 Refugee Loan, 1924/12

The Greek Chargé (Tsamados) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

No. 964 WASHINGTON, *July 24, 1923.*

MY DEAR MR. DULLES: As is already known to you, the Council of the League of Nations has expressed the wish that a loan should be granted to Greece in order to make it possible for her to complete her constructive work concerning the settlement of the refugees. This loan is to be granted under certain guaranties to be given by the Greek Government.

Yet the Greek Government cannot enter into any such obligation without the assent of the United States Government. Article 4 of the Financial Agreement signed in Paris on February, 1918,[37] between the United States, Great Britain, France and Greece, states that: "until the redemption of the aforesaid obligations, no new security may be used for an exterior loan without the assent of the Governments of the United States of America, France and Great Britain."

In view of the highly humanitarian cause in the service of which the proceeds of the new loan are to be spent, the Royal Greek Government hopes that there will be no difficulty for the Government of the United States to give their assent, as provided by the aforesaid Article 4 of the Financial Agreement of February, 1918, in order to enable the Government of Greece to provide the necessary securities.

I am [etc.] M. TSAMADOS

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[36] *Ante*, p. 348.

[37] Not printed; see *Greek Debt Settlement*, p. 51.

868.51 Refugee Settlement Commission/111

The British Chargé (Chilton) to the Secretary of State

No. 622 WASHINGTON, *July 30, 1923.*

SIR: In the note which you were so good as to address to me on the 31st of March last, regarding the question of relief for Greek and other refugees in the near East, the contents of which I did not fail to communicate to His Majesty's Government, you stated that the American Red Cross would terminate its relief work in that area on the 30th ultimo but that, if a constructive plan could be worked out for the solution of this problem, the American relief agencies would be ready to cooperate even after that date. You also suggested that with a view to the adoption of co-ordinated action to liquidate this question an early exchange of views between His Majesty's Government and the United States Government would be desirable.

Under instructions from my Government, I have the honour to inform you that the whole problem was recently the subject of earnest consideration by a committee of the League of Nations, and that a constructive plan has now been evolved to deal with the situation. Firstly, it was held to be without question that the Greek Government could not support the number of people who are now in need of relief for even a short time, without results that will amount to financial and economic ruin. Further, there is good ground for apprehension that these disastrous financial and economic results might be followed by internal disturbances which would be gravely detrimental not only to the Greek State but also to the general Balkan situation.

As regards the financial aspects of the problem, the discussions of the Greek Loan Sub-Committee of the Council of the League have been valuable and fruitful. A scheme, prepared and unanimously agreed to by the three members of the Financial Committee (M. Janssen, M. Parmentier and M. Bianchini), Dr. Nansen and the Greek representative, was unanimously adopted by the Sub-Committee. It is hoped that with the help of this scheme, and of the conditional promise of League association in it, the Greek Government will be able to float a loan of from three to six million pounds sterling. If it succeeded it would secure the effective settlement of the refugees in ways that would make them self-supporting in a short time, and would do so without the assistance of the guarantee of other governments for the loan. The settlement would be directed by a Commission appointed by the Greek Government and the League, with an American Chairman. The Council adopted this

scheme on July 5, and decided to transmit it to the Greek Government upon whom responsibility for the execution of the first steps will lie. It will be observed that among the first conditions are the underwriting of not less than £1 million by Greek houses, and the free grant of at least 500,000 hectares of land. It is understood that M. Venizelos has expressed complete satisfaction with the scheme and it is hoped that the active support of the Greek Government and bankers will be assured. M. Caclamanos[38] has also officially accepted it on behalf of the Greek Government.

Further, I understand that Colonel Logan who replaced Mr. Dolbeare, the United States adviser who attended the first meetings of the Financial Committee of the League, showed every desire to co-operate with the Financial Committee and the Council, and that at a meeting of the Council Sub-Committee Colonel Logan made the following declaration:—

"I am authorised to state that the American Government cannot urge in too strong a language the immediate urgency of the problem involved, and that the American relief agencies which have been feeding over one half million people daily for a period of eight months and at a tremendous cost are approaching the end of their resources. They have been forced to give notice that they can no longer go on at the present rate, but that the burden which they have now been bearing for so long must be shared by others. It is imperative in the interests of the half million or more people who are concerned that some general plan be worked out immediately. Should such a plan prove possible it is understood that the American relief agencies would be ready to co-operate."

In order to make the situation quite clear to you, I have the honour to transmit herewith a memorandum setting forth the details of the plan which has been recommended.[39] I would point out that the sums mentioned in it will probably not be sufficient for the purpose unless they are supplemented by charitable assistance on a large scale by the American and other societies. On the other hand, as the plan is both productive and constructive and in view of the magnificent work performed by the American relief societies in the past and of the assurance given by Colonel Logan which I have quoted above, I feel confident that the plan will meet with a favourable response on the part of the American Relief Agencies.

In acquainting you with the above proposals to deal with the existing relief emergency in the Near East I have the honour to express the hope that you will see your way to use your influence with the

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[38] Greek Chargé in Great Britain.

[39] Not printed: the memorandum was substantially the same as the plan given in telegram no. 315, July 6, from the Ambassador in France, p. 348.

American relief societies interested in order that they may continue their assistance by co-operating in the execution of these proposals. His Majesty's Government also trust that through your kind intermediary it may be possible to instruct the American representative on the small relief committee, which forms part of the new proposals, to afford every possible assistance with a view to securing such co-operation on the part of the American relief societies.

I have [etc.] H. G. CHILTON

868.48/579a : Telegram

The Secretary of State to the Chargé in Greece (Atherton)[40]

[Paraphrase]

WASHINGTON, *August 4, 1923—5 p.m.*

47. With reference to a previous telegram[41] regarding Greek refugees now being cared for by Near East Relief in Constantinople and Pontus region, the Department has been advised that the New York office of the Near East Relief has instructed the managing director to inform the Greek authorities that on August 15 the Near East Relief will discontinue feeding adults in the region of Constantinople and the Black Sea.

It seems advisable in view of above that the Greek authorities take urgent action and you may give appropriate reinforcement to the previous representations in this regard which you have made.

Repeat as Department's 145 to Constantinople and report regarding attitude of Greek authorities.

HUGHES

868.48/579 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *August 6, 1923—11 a.m.*

[Received 3:55 p.m.]

204. Jaquith recently informed me Near East had received orders to discontinue feeding refugees Constantinople and Pontus areas on August 15th and this now confirmed by Department's 145, August 4, 5 p.m.[42] In view of this fact I suggest that strongest pressure be brought to bear upon Greek authorities to formulate plans for early evacuation to Greece of these refugees and I recommended that [if?]

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[40] See last paragraph for instructions to repeat to Constantinople as no. 145.
[41] Not printed.
[42] See telegram *supra*.

Greek Government adopt such plan Near East Relief continue feeding for necessary and reasonable time to permit its completion.

Department will readily understand deplorable position in which refugees will be placed unless some such action as outlined above is taken.

BRISTOL

868.48/578 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *August 6, 1923—7 p.m.*
[Received August 6—1:43 p.m.]

205. My 204, August 6, 1 [*11*] a.m. Adnan Bey [48] informed me this morning that Red Crescent will be unable to care for refugees if feeding is stopped by Near East and he urgently requested Near East to continue such feeding. He furthermore urged me personally to request Department to instruct American Chargé d'Affaires at Athens to make representations to the Greek Government to evacuate the refugees as soon as possible.

BRISTOL

868.51 Refugee Loan, 1924/12½

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Greek Chargé (Tsamados)

WASHINGTON, *August 7, 1923.*

MY DEAR MR. TSAMADOS: I beg to acknowledge the receipt of your letter of July 24, 1923, (No. 964) in which you refer to the possibility of floating a loan in connection with the financing of further relief work under guarantees to be given by Greece. You inquire concerning the granting of assent by the Government of the United States as contemplated in the financial agreement signed at Paris in February 1918 to the pledging of new security by Greece in connection with such a loan.

Permit me to assure you that this Government desires to see the exigency as to the work of relief in the Near East properly met and that the question raised in your letter has received and will continue to receive the most careful and sympathetic consideration.

I am [etc.] A. W. DULLES

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[48] Vice President of the Turkish Grand National Assembly.

868.48/578 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *August 7, 1923—5 p.m.*

147. Your telegrams 204 and 205 of August 6.

As indicated in our telegram 145 of August 4,[44] the Department has instructed our Chargé in Greece to make representations with respect to removal to Greece of the refugees in question.

When the American Red Cross last March announced that it would soon withdraw its relief work in Greece, the Near East Relief indicated a similar wish to end its operations in behalf of adult refugees as soon as feasible. That organization felt that it had assumed a definite commitment with respect to orphans in its care and that it did not have financial resources sufficient to continue indefinitely both general adult relief work and the care of the orphans. The Department briefly indicated this in its note of March 31. The Near East Relief has since then emphasized the urgency of ending at an early date its relief work for adults.

The Department feels that in view of the conclusion of peace it is difficult to urge the Near East Relief to continue work in behalf of adults. It would be even more difficult to bring the work to an end in winter if the operations were continued through the summer. There seems to be no substantial reason why Greece and Turkey should not make arrangements for the proper care and disposition of these refugees. The only hope, however, of obtaining vigorous action by these countries lies in definitely placing the responsibility upon them. As long as there is any hope that feeding operations will be carried on by American charity both Greece and Turkey would without doubt delay a settlement.

The Department is bringing to the attention of the Near East Relief a paraphrase of your telegram 205 of August 6.

Repeat as our 49 to Athens and submit any additional comments.

HUGHES

868.48/582 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *August 7, 1923—6 p.m.*

[Received August 8—3:45 a.m.]

117. Department's 47, August 4, 5 p.m. and Bristol's August 6, 11 a.m. I interviewed Minister for Foreign Affairs today and

[44] See footnote 40, p. 359.

strongly pressed for promise for immediate transfer to Greece of refugees in question. After protracted interview he asked me to accept a proposition

"whereby Greek Government would undertake to complete transfer of one-half of number or approximately 10,000 refugees between August 16 and August 23 providing Near East Relief would continue feeding of remaining half until September 16 at which time Greek Government would undertake to transfer to Greece remaining refugees. In view of additional expense Government would hope for supplies from American charitable organizations to assist in feeding these new refugees upon arrival in Greece for at least a period of one month until they became partially self-supporting. These supplies however only to be delivered to Greek Government in September upon completion of transfer to Greece of all refugees in question."

I explained I was unable to accept any proposition nor do I consider the Minister for Foreign Affairs bound by his remarks. Should, however, the Department authorize me to continue conversations along these lines I am of the opinion I could secure satisfactory promises from the Government. In any case I request instructions to enable me to have final interview with the Government authorities on this matter.

ATHERTON

868.48/580 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *August 7, 1923—10 p.m.*
[Received 11:50 p.m.]

118. Bicknell of American Red Cross has authorized Mrs. Tsipouras, resident Athens, to dispose of Red Cross supplies here. Latter is willing to devote these supplies to refugees upon their arrival in September as set forth in my cipher telegram 117 August 7, 6 p.m. It is estimated supplies should last five or six weeks.

ATHERTON

868.51 Refugee Settlement Commission/118 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *August 8, 1923—7 p.m.*
[Received 7:50 p.m.]

Department's 46, August 4, 4 p.m.[45] I see no reason to modify recommendations of Haskell contained in my telegram no. 108, June 25, 7 p.m.[46]

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[45] Not printed.
[46] See telegram no. 463, June 26, from the Special Mission at Lausanne, p. 345.

First. I recommend that any expression of the American attitude clearly state that while America is willing to consider measures for the permanent solution of the refugee problem in Greece, America will not contemplate participating in any further measures of temporary or emergency relief.

Second. I recommend that the commission recommended by Haskell should commence its work not later than the middle of September.

Third. I recommend that the American member of this commission be some one familiar with Greece and the Greek character and if possible speaking the language.

Fourth. I recommend that the members of this commission be instructed to submit a majority report on the fundamentals of the situation and advance separate individual report to their respective Governments.

ATHERTON

868.51 Refugee Settlement Commission/119

The French Chargé (Laboulaye) to the Secretary of State

[Translation [47]]

WASHINGTON, *August 9, 1923.*

MR. SECRETARY OF STATE: By a note dated March 31 [48] last Your Excellency was so good as to inform this Embassy that although the distribution of first aid by the American Red Cross and the Near East Relief to the evacuated people of Asia Minor was to come to an early end, those organizations would nevertheless be ready to carry on their charitable work, even after the set term, provided a positive plan be established to enable them to cooperate in similar undertakings with other nations in their search for final solutions of the questions relative to the employment or quartering of those refugees.

As Your Excellency knows, the Council of the League of Nations passed at Geneva at its session of July 5 last the following resolution relative to the contemplated Greek loan for the refugees:

"The Council of the League of Nations has asked its experts to examine the question of the Greek loan for the refugees and look into a program of measures for the settlement of those refugees.

"The securities offered by the Greek Government appear to be such as to be available as a basis for the flotation of a loan, the proceeds of which would be applied to settling the refugees and assuring for them remunerative work. The supervision of those

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[47] File translation revised.

[48] See footnote 11, p. 329.

securities might be facilitated through the extension of an international commission which has been in operation since 1898.

"If the Greek Government should succeed in floating a loan for that purpose, the Council, after ascertaining the terms of the said loan, is ready to extend its assistance in organizing the management of the funds yielded by the loan, so that the lenders may be assured that the funds will be used in accordance with the program."

The Council further decided to appoint a limited committee consisting of:

Doctor Nansen, High Commissioner for Refugees;
A representative of the American relief organizations;
A representative of the Hellenic Government.

This committee would have charge of inquiring what measures could be taken by the Greek Government in order to assure for the refugees temporary relief pending the availability of the first resources yielded by the contemplated loan.

I venture to hope that the measures contemplated by the Council of the League of Nations will meet the conditions placed upon the cooperation of the American relief organizations according to Your Excellency's above-mentioned note. If this should be the case, I should be thankful to you if you would kindly intervene with the associations under consideration, so that they will continue to distribute relief to the refugees, a large number of whom are in Syria at present, and that they send instructions to that effect to their representative who, with Doctor Nansen, the High Commissioner for the refugees, and a representative of the Hellenic Government, is to form the special committee which the Council of the League of Nations has decided to create.

Be pleased [etc.] ANDRÉ DE LABOULAYE

868.51 Refugee Settlement Commission/120 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, *August 10, 1923—noon.*
[Received 10:50 p. m.]

343. L–1. Reference Department's 308.[49]

1. Substance Department's 287, July 17th, communicated orally to representative League of Nations upon receipt as directed.

2. Greek refugee situation as I see it following: Approximately 500,000 now in Greece requiring refuge. Red Cross upon closing out operations June 30th left reserve stocks sufficient to meet re-

[49] Not printed.

quirements to at least September 1st. Financing of land settlement society about £1,000,000 sterling already underwritten by Greek banks. If successful will take weeks, with result that practical effect in reducing numbers indigent refugees cannot be felt before beginning of 1924. Therefore problem resolves itself into providing for such numbers for four months, September 1st to January 1st, 1924. League of Nations and Greek Government representatives and Colonel Haskell estimate cost of taking care 500,000 refugees at approximately $500,000 per month. Greek Government about July 15th formally notified League of Nations its intention to advance 10,000,000 drachmas per month to care for refugees. At current rates exchange this represents upwards of $250,000 per month, leaving uncovered deficit of approximately same amount which our relief societies practically unaided by any other foreign subscriptions now asked to cover.

3. While at Geneva I pressed for some statement as to extent contributions for pure relief work by European relief organizations outside of Greece but received no answer or commitment. General position being taken that responsibility rested squarely on Greek Government. Robert Cecil tacitly acquiesced this latter position. Therefore somewhat surprised British Embassy's request our aid without any reference as to what support British themselves propose offering this relief operation.

4. Without information as to extent American relief agencies' funds available Greek relief. My own judgment bad policy to encourage feeling that America willing to shoulder entire Greek relief operations without adequate share burden being borne by other Europeans. However feel that in view present Greek position there is a practical need for refugee relief to the extent indicated in paragraph second. Greek Government itself should carry at least half the burden as they already propose doing which leaves balance of $250,000 uncovered. Would suggest American relief societies if they so elect, offer a fixed sum of say $50,000 a month for the four months in question with the proviso that when a dollar for dollar subscription had been made by European relief societies outside of Greece up to this monthly amount that American relief societies would advance an additional dollar for dollar up to a total of $125,000 per month. The effect of the adoption of some such formula as this would in my judgment be wise and would have excellent moral effect.

5. Governor Bank of Greece at present London looking into possibility underwriting £2,500,000 sterling for land settlement society scheme. At time visit to me about 10 days ago optimistic securing

such amount London. Then proposes approaching American bankers for the purpose of raising similar amount America. Personally not overconfident that he will succeed in London. My judgment loan not attractive and interest rate probably demanded American markets, particularly in view of present position Servian loan bonds with which Greek obligation will be compared, will prohibit any American borrowings.

6. From my information proportion agriculturalists to total number refugees relatively small. Large number refugees small shopkeepers and women and children not adaptable to agricultural work land settlement plan. However land settlement plan exclusively Greek Government concern and feel that if refugees protected until January 1st number indigent will be reduced by filtration back into Asia Minor and by normal absorption Greek economic life to a quota possible to be carried by monthly Greek Government cash grant without outside assistance.

. . . . . .

WHITEHOUSE

868.51 Refugee Settlement Commission/123

The Greek Chargé (Tsamados) to the Assistant Chief of the Division of Near Eastern Affairs, Department of State (Dwight)

No. 1057 WASHINGTON, *August 18, 1923.*

MY DEAR MR. DWIGHT: At this particularly critical moment, when the supplies left in Greece by the American Red Cross are exhausted; when the Near East Relief has announced the termination of all adult relief; and when Sixty Thousand additional refugees from Constantinople and the Black Sea Ports are arriving in Greece, the Greek Government wishes once more to call attention to the terrible plight of the refugees now in Greece, facing certain death, and to make a last appeal to the humanitarian sentiments of the civilized world in behalf of hundreds of thousand human beings who, through no fault of their own are homeless, destitute and are now, seemingly, abandoned to starvation and death.

. . . . . .

Prior to the influx of the refugees, Greece had a population of about Four and a Half Million people. The total number of refugees, including Sixty Thousand new arrivals, is more than Twelve Hundred Thousand, or an increase of more than 25%.

. . . The emergency was soon realized by the civilized people of all the world; the American Red Cross sent a special mission to Greece, as did the relief organizations of other countries; thus, with

the Greek Government cooperating in a large measure it was possible for the time to save the refugees from certain death.

It is impossible to estimate in dollars the cost to the Greek Government of this cooperation. It is obvious that the expenditure has been very great. The cooperation of the Government consisted in part in:

a) Remission of all harbour, light house and sanitary dues to ships carrying Red Cross supplies.
b) Remission of all Custom Duties.
c) All supplies were transported from the ship to Red Cross warehouses, and from warehouses to point of consumption at the expense of the Government.
d) All wheat was milled at the Government's expense.
e) All bread was baked at the Government's expense.
f) American Red Cross Officials and employees travelled free in all trains, ships and street cars in Greece.
g) All American Red Cross cables, telegrams and letters were forwarded by the Greek Government at its own expense.
h) All offices, warehouses, hospital buildings, etc., were furnished free of charge by the Government as well as living quarters for most of the field managers. In most cases offices and living quarters were furnished and equipped by the Government.
i) All light and heat was furnished by the Government.
j) Automobiles were furnished for the use of various Red Cross officials at the Government's expense.
k) Many of the field managers had special assistants paid by the Government and a special employee was attached to each local committee, selected by the Red Cross, but paid by the Government.
l) Coal, wood and water for cooking were all provided by the Government.

The above cooperation was extended to all relief organizations working in Greece. In addition to above, independently of all other expenses incurred by the Greek Government, the Government had paid out the following sums up to May 1, 1923, together with proportional sums since that date:

	DRACHMAS
a) Cash allowances, sanitary measures, food and clothing	130 000 000
b) Transportation of refugees to Greece and in Greece	150 000 000
c) Rental of buildings of all kinds in which refugees were lodged	250 000 000
Total expenses under above headings	530 000 000

As stated in the Note of the Honorable The Secretary of State to the Ambassadors of Great Britain, France and Italy on March 31: "feeding of great camps of refugees could not continue for an indefinite period." This view was shared by the Greek Government which set immediately to work to perfect plans of a constructive

nature, in order to absorb the new population in the economic life of the country and render them selfsupporting. "What we plan is not the mere feeding of these people; we must provide them with homes and with occupation." Such were the words of a prominent Greek statesman in an appeal for justice towards Greece.

Two special Commissions were established to study the refugee problem. (A summary of their program was communicated to the State Department with my letter of June 19, No. 794.[50]) Out of the total number of 1 200 000 refugees, 280 000 are selfsupporting and another 250 000 are now half self supporting, leaving 670 000 entirely dependent refugees.

The only possible way to solve the question seemed to be to grant Greece a special loan for the settlement of the refugees. The Council of the League of Nations accepted in principle this point of view and on the basis of the reports of Colonel Procter, who had made a careful study of the refugee situation in Greece and of Mr. Parmentier, a member of the financial commission, it was decided, in July 1923, that the League of Nations should give its moral support in order that a loan to settle the refugee problem could be obtained by Greece.

Colonel Procter in his very comprehensive report calculates that Ten to Twelve Million Pound Sterling will be required for complete solution of the problem.

But before the refugee loan can be perfected and the proceeds thereof made available a certain time will elapse. At one of the sessions at Geneva (July 2–5), the United States Representative Colonel Logan asked, and the question was very much to the point: what would become of the refugees in the meantime, since the American Red Cross had already stopped its activities on June 30, and the Near East Relief had also announced that it would have to stop feeding adult refugees, and since it was known that three or four months would have to pass before the proceeds of the loan could be made available. Besides, the feeding of the refugees would have to go on even after that time, first because the proceeds of the loan were to be used only for permanent settlement of the refugees, and second because it would be impossible to perfect the settlement of three quarters of a million people at the very moment of the conclusion of the loan.

It was thus decided to form a special committee composed of one Greek representative, one representative of the American organizations and the High Commissioner of the League of Nations. The task of this committee was to find the means to feed the refugees during the time of the negotiations and perfection of the loan.

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[50] Not printed.

The Greek Government was informed of the formation of the special committee and was asked to state what would be its contribution. In spite of the very difficult economic and financial conditions of the country the Greek Government replied that it would contribute with 10,000,000 drachmas monthly; but that this was the utmost it could do without risk of bringing about a further fall in the value of the drachma thus diminishing the value of the revenues that were to be given as security for the loan. The British organizations promised to care for 50,000 refugees and the Scandinavian relief organizations pledged themselves to contribute with money. Colonel Logan was requested to ask for the nomination of the American representative on the special committee; but a few days later he informed Mr. Nansen that the United States Government considered the presence of an American representative on the commission inopportune.

At the end of the note already mentioned to the Ambassadors of the three Western Powers, The Honorable The Secretary of State expressed himself as follows:

"If a constructive plan can be worked out for an apportionment of the task and for the gradual solution of the refugee problem, American relief agencies will be ready to co-operate, even after the termination of the emergency relief work of the American Red Cross on June 30th next".

Can it be that the United States Government means to keep aloof from any participation of American organizations in the highly humanitarian work assumed by the committee created in Geneva? Will American organizations refuse to co-operate further in settling definitely those same unfortunate beings for the preservation of whose lives they have spent vast amounts of money?

The Greek Government hopes you will allow American organizations to be represented on the special committee. The abstention of American organizations may wreck the whole plan and bring to nothing all the endeavors to float a loan for the refugees and to find the necessary means to provide for them up to the moment when the proceeds of such a loan will be made available.

One hundred and ten thousand among the refugees are Armenians and other non-Greek races. The Greek nation will never and under no pretext force them to leave the Greek territory in order to relieve the situation of those of Greek race, . . . but it must not be forgotten that unless help is forthcoming from richer and happier nations, more than half a million people, irrespective of race and religion, are facing certain death.

The Government and people of Greece, feel under the necessity of proclaiming to the civilized world that, though not primarily responsible for the plight of the refugees nor their presence in

Greece, they propose to do their utmost to alleviate their misery, but that the efforts of Greece unaided are not sufficient and that the slow and certain death which now stares these people in the face is not the fault of Greece. If adequate steps are not taken to prevent their misery and death, history will lay the blame at the door of the civilized world.

I am [etc.] M. TSAMADOS

868.48/582 : Telegram

The Secretary of State to the Chargé in Greece (Atherton)

WASHINGTON, *August 18, 1923—2 p.m.*

51. Your 117 and 118 August 7, 6 p.m. and 10 p.m.

Department approves of your action in informing the Minister for Foreign Affairs that you were unable to accept the bargain which he proposed. Information has not yet been received which would enable the Department to state whether the Near East Relief would consider continuing adult refugee feeding in Constantinople for the limited period mentioned but is of the opinion that the Greek Government should make its own decisions without attempting to involve this Government or American charitable agencies. You may continue to present the problem as one concerning the Greek and Turkish Governments alone. Report whether Foreign Minister continues conversations in the line of your 117, and repeat to Constantinople as 153.

HUGHES

868.48/594 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *August 19, 1923—4 p.m.*

[Received 9 p.m.]

120. Department's telegram 51 August 15 [*18*], 2 p.m. Upon arrival of Director Jaquith Near East Relief I suggested to him that he [apparent omission] conversation with the Minister for Foreign Affairs reported in my cipher telegram 117, August 7, 6 p.m. Jaquith informed me yesterday he has made an arrangement very much as reported in my 117, August 7, 6 p.m. and that he understood two Greek vessels with some of the refugees aboard have already left Constantinople for Saloniki.

I understand League of Nations will care for some 5,000 of these refugees in [Thrace?]. Constantinople informed.

ATHERTON

868.51 Refugee Settlement Committee/128 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, *August 25, 1923—3 p.m.*
[Received 3:52 p.m.]

353. L–5.

1. Paragraph 8 your 287, July 17th. In 5th paragraph our L–1 [51] we referred to visit governor, Bank of Greece to London for purpose endeavoring underwrite £2,500,000 sterling for land settlement society in London. Just informed that negotiations London between Norman, Bank of England, and Diomedes, Bank of Greece, took more time than originally contemplated. Principal cause was constitutional difficulties due to position of Greek Government. Felt in London that position more favorable for such loan if position Government could be regularized by elections and if demobilization could be actually effected (both being facilitated by conclusion of Lausanne negotiations). Norman recognized that this delay too long and that something must be done meantime. After discussion Norman made provisional offer to arrange an advance if Greeks made progress in both directions. Figure fixed this advance was £1,000,000 sterling. Among more important provisional conditions proposed were following: Advance to be secured on certain unissued bonds of 1914 loan (the existence of these unissued bonds going some way to meet technical legal difficulties) bonds and service to be duly recognized by the investigations financial commission, money to be paid over and disbursed by the refugee settlement society contemplated under the League scheme. The Greek Government during current advance to undertake no external indebtedness, the Greek banks to participate in the advance as lenders to the extent of 25 percent *pari passu*, the refugee settlement society to undertake as regards disbursement of proposed advances: (*a*) to adopt the proposals approved by Council of League of Nations at its 25th session (see American Embassy no. 315, July 6); (*b*) to effect settlement solely on lands provided free of charge and without encumbrance by Greek Government; (*c*) to obtain security for all payments; (*d*) to make payments only for productive purposes; (*e*) to make no charitable or *ex gratia* payments; (*f*) to hand over all eventual assets and security to the International Financial Commission.

The foregoing advance made conditional on the inclusion of an American so that the American member and the League member could in agreement out vote the Greek members. (Foregoing Norman negotiations confidential).

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[51] *Ante*, p. 364.

2. On July 29, 1923, the Greek Government formally accepted League scheme for organization land settlement society in words briefed as follows:

"The Greek Government informs League of Nations that it accepts plan adopted by the Council of the League and therefore proceeding on preparatory work of designating the 500,000 hectares of land to be turned over to this society. The Greek Government has also entered into conversations with the Greek banks providing for the agreement of the latter to underwrite £1,000,000 sterling of the total loan and at the same time has commenced negotiations with foregoing banks looking towards the raising of the additional portion of the loan."

3. Under Norman's conditions the so-called preliminary advance of £1,000,000 sterling will not be made by London until land settlement society actually set up including "one representative relief societies, an American, as chairman with casting vote." League of Nations and two Greek members will be designated within a few days. Informed privately that Red Cross and Near East finding difficulty in making joint nomination. Red Cross apparently holding to position stated paragraph 7, Department's #287. On the other hand, learned from persons connected with League that Near East will welcome invitation to nominate if American Government makes no objections. In that case Near East would suggest Morgenthau who seems likely to be acceptable to League. Procedure contemplated is that League would cable at beginning September to Red Cross and Near East asking them to nominate jointly. Failing joint nomination League would probably like to appoint Morgenthau on direct Near East nomination.

4. While neither advocate nor partisan of idea "one representative relief societies, an American, as chairman with casting vote" formally adopted by League Council, and while fully alive to underlying reasons Norman's advocacy American chairmanship, nevertheless feel selection some suitable American undoubtedly helpful Greek morale and go far in assuring sound business treatment question. With preliminary £1,000,000 sterling Bank of England advance plus 25 per cent *pari passu* Greek banks advance or total of approximately £1,250,000 sterling a fairly important capital apparently immediately available upon which to base constructive work. Under foregoing conditions regrettable my judgment that American relief societies cannot jointly make some nomination, to [*or?*] devise some formula which would completely divorce them from any future responsibility. Obviously Department itself should assume neither directly nor indirectly any responsibility for such nomination.

Logan
WHITEHOUSE

868.51 Refugee Settlement Commission/134

The Department of State to the British Embassy[52]

AIDE-MEMOIRE

The Department of State received from the British Embassy under date of July 30, 1923, a note communicating the result of the efforts of a special committee of the League of Nations to devise a constructive scheme for the relief of refugees in Greece. The plan proposed would appear to comprise the following features:

(1) A loan of three to six million pounds sterling, at least one million of which would be underwritten by Greek bankers;
(2) A contribution from the Greek Government of not less than 500,000 hectares of land;
(3) A Refugee Settlement Society, whose officers would include one representative of the League of Nations, one representative of relief agencies, two representatives of the Greek Government, and an American chairman with a casting vote;
(4) A temporary relief committee under the chairmanship of Dr. Nansen, comprising one representative of the Greek Government, one representative of European relief agencies, and one representative of American relief agencies.

In acquainting the Department with the above proposals, the British Embassy expressed the hope that American relief societies would be disposed to continue the assistance which they have already rendered, by cooperating in the organization and in the support of the two committees.

In view of the serious and long continued drain on its resources and of the fact that its relief activities properly should be limited to meeting immediate emergencies, the American Red Cross has indicated anew that it is not in a position to assume direct responsibility for future work among refugees in Greece. It is further considered that in so far as may be practicable the responsibility for future relief should be in the hands of the Greek authorities themselves, with such supplementary assistance as outside agencies may be in a position to render.

The American Red Cross, however, upon assurances that a substantial portion of the aid supplementary to the Greek effort is to be forthcoming from European sources, will be disposed to cooperate by making an additional grant. But this grant would be available for a strictly limited period only, and in case it should be clearly demonstrated that the need has not been met. In view of recent urgent calls in other parts of the world and of the fact that all its personnel have left Greece, it would be difficult for the Red Cross

[52] A similar *aide-mémoire* was sent to the French Embassy.

at this time to send a representative as a member of the temporary relief committee.

With reference to the Refugee Settlement Society the American Red Cross has indicated to the Department that the scope of the operations contemplated by that body appear to fall outside the emergency activities of the Red Cross.

As was already indicated in the Department's communication of March 31, the Near East Relief contemplates continuing its work for the orphans now under its charge in the Near East, of whom a large percentage are in Greece. In view of this commitment the Near East Relief is not in a position to assume a further obligation for adult refugee work although in its orphan work in Greece this organization will desire to cooperate with Greek and other organizations which may be engaged in other phases of the relief task.

With reference to the concluding paragraph of the British Embassy's communication it may be added that the Department has not failed to bring to the attention of the American Red Cross and the Near East Relief the considerations advanced in this communication. These organizations will undoubtedly be able to indicate directly to the responsible European and Greek agencies engaged in refugee relief work in Greece any further information with regard to their position in the matter which those agencies may desire.

WASHINGTON, *September 10, 1923.*

868.51 Refugee Settlement Commission/140

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Greek Chargé (Tsamados)

WASHINGTON, *September 12, 1923.*

MY DEAR MR. TSAMADOS: I beg to acknowledge the receipt of your letter dated August 18, 1923, on the subject of the refugee situation in Greece, in which you state what has already been done by the authorities of your country and communicate the result of the efforts of a special committee of the League of Nations to devise a constructive scheme for the relief of the refugees.

The Department has not failed to bring to the attention of the American Red Cross and the Near East Relief the considerations advanced in your communication. These organizations will undoubtedly be able to indicate directly to the responsible European and Greek agencies engaged in refugee relief work in Greece any further information with regard to their position in the matter which those agencies may desire.

With reference to your statement that "the Greek Government hopes you will allow American organizations to be represented on the special committee," I may add that it is not the desire of this Department to place obstacles in the way of any action in this matter which the American relief societies may consider possible for them to take in the circumstances.

I am [etc.] A. W. DULLES

868.51 Refugee Loan, 1924/19 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *September 19, 1923—3 p.m.*

[Received 10:30 p.m.]

401. In a note dated 18th instant Foreign Office states:

1. An inquiry has been received from the Greek Government whether in view of proposed refugee loan British Government would be prepared to waive right of veto held under agreement of February 10th, 1918,[52a] on assignment any further Greek security.

2. British Government propose to reply that they will for their part consent to assignment by Greece of security for proposed loan, subject to similar waiver being accorded by the United States and France.

3. Inquiry is made whether the United States Government has received a similar application from the Greek Government and if so what reply they intend to return.

I refer to Embassy's telegrams 371, August 27, 5 p. m.,[53] and 382, September 4, 3 p.m.[53]

HARVEY

868.51 Refugee Settlement Commission/147

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Secretary of State

[WASHINGTON,] *October 1, 1923.*

THE SECRETARY: The Sunday papers printed the report that former Ambassador Morgenthau had been selected by the League of Nations as Chairman of the Refugee Settlement Society which is to take up the problem of the refugees in Greece. As this matter may be raised in press conferences, the following information may be helpful.

At meetings of the Finance Committee of the League of Nations which were held in June and July last, and which Mr. Dolbeare and

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[52a] *Greek Debt Settlement*, p. 51.

[53] Not printed.

Colonel Logan attended in an advisory capacity, it was decided to form a refugee settlement society to assist the Greek Government in settling refugees on lands owned by the Greek Government. For this purpose it was proposed to float loans in England, and if possible in the United States, and Greek banks undertook to make certain preliminary advances. It was proposed that the Refugee Settlement Society should be directed by a Committee with an American chairman with casting vote, a British representative, and two Greek representatives.

In communications which were received from the British and French Embassies, under date of August 9 and July 30,[54] the Department was asked whether it would assist in carrying out the program which had been outlined by the League of Nations. To these notes the Department replied, under date of September 10, indicating that the American Red Cross did not desire to be represented on the commissions which the League proposed to form but under certain conditions would assist by making a further grant of money. The Department suggested that further information with regard to the attitude of the two relief societies—the Red Cross and the Near East Relief—could be obtained by direct inquiry of the society.

The Near East Relief at first indicated to the Department that it felt it would be desirable for it to cooperate with the League and the Greek Government in selecting an American chairman for the Refugee Settlement Society, and they presented to the Department a tentative list of names of persons[55] whom they were considering, informally asking our advice. The Department replied that it would not pass upon any such list; that the selection by an American relief agency of an American chairman would undoubtedly be taken to indicate abroad that further substantial sums of money would be forthcoming from this country, which did not appear to be the case, and that if the Greek Government or the League of Nations desired an American chairman there would appear to be no objection to their making the choice directly.

. . . The last information which I received by telephone from Mr. Vickrey, almost a week ago, was to the effect that the Near East Relief would not itself suggest any names but it would indicate to the League that if the latter made a choice it would be glad to cooperate.

A. W. D[ULLES]

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[54] The note from the British Embassy was dated July 30; the note from the French Embassy was dated Aug. 9.

[55] Not printed.

868.51 Refugee Loan, 1924/19 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *October 10, 1923—7 p.m.*

278. Your 401, September 19, 3 p.m.

Please reply to Foreign Office note textually as follows:

"I have the honor to acknowledge the receipt of Your Excellency's note of September 18, 1923, in which you indicate that His Majesty's Government has received an inquiry from Greece with reference to the assignment of further Greek security in connection with the proposed refugee loan. You were good enough to inform me of the proposed reply of His Majesty's Government, and to inquire whether the Government of the United States has received a similar application from the Greek Government and if so what reply the Government of the United States intends to return.

I am instructed by my Government to inform you that on July 24 last a representative of the present Greek regime submitted an informal note to the Department of State inquiring in regard to the attitude of the Government of the United States in this matter. On August 7 an informal reply was made, conveying the assurance that my Government desires to see the exigency as to the work of relief in the Near East properly met and that the question raised has received and will continue to receive the most careful and sympathetic consideration.

I am also authorized to say for the information of His Majesty's Government that the Government of the United States would not be disposed to offer any objection to the pledging of security by Greece in connection with a loan at the present time for the purpose of dealing with the refugee situation, provided the Governments of Great Britain and France should likewise agree to raise no objection."

HUGHES

868.51 Refugee Settlement Commission/149

The First Secretary of the British Embassy (Cecil) to the Under Secretary of State (Phillips)

WASHINGTON, *October 29, 1923.*

MY DEAR MR. UNDER-SECRETARY: On September 10th you handed to Mr. Chilton an Aide-Memoire, No. 868.48/575 explaining the views of the United States Government in regard to the relief of refugees in Greece.

This was forwarded to the Foreign Office, who, in acknowledging its receipt, write that the Treasury, to whom your Aide-Memoire was communicated have replied that they are unable to give any assurances as regards the efforts of voluntary societies in Europe and that, anyhow, there can be no question of further Government assistance.

This information is very vague, but Mr. Chilton asked me to pass it on to you for what it is worth.

I am [etc.] JOHN CECIL

868.51 Refugee Settlement Commission/157

Mr. Ernest J. Swift of the American Red Cross to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

WASHINGTON, *November 23, 1923.*

MY DEAR MR. DULLES: Enclosed you will find a cable sent by Mr. Morgenthau from Athens to the American Red Cross, dated November 22, 1923, which may be of interest to the State Department. We have sent him a simple acknowledgment by post.

Yours very sincerely

ERNEST J. SWIFT

[Enclosure]

The Chairman of the Refugee Settlement Commission (Morgenthau) to the Chairman of the American Red Cross (Payne)

ATHENS [*undated*].

[Received November 22, 1923.]

Highest appreciation constantly expressed here for recent Red Cross assistance. Greeks implore for its renewal to prevent wholesale starvation this winter. Refugees still unplaced. Our commission prevented by its organic statutes from expending its funds for temporary relief. Greek government financially unable to cope with entire situation hence this emergency. A few million so easily obtained in America will save situation and help Greece in her gallant struggle to absorb one million of its destitute Christian brothers. Greek government has drawn heavily on her resources in permanently settling quarter of million refugees. More than seven hundred thousand penniless sparsely dressed refugees are still inhumanely huddled in theatres, churches, schools, camps. Our commission hopeful accomplishing its task if some noble charity will keep refugees alive until spring.

MORGENTHAU

868.51 Refugee Loan, 1924/27: Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, *December 5, 1923—4 p.m.*

[Received 8:50 p.m.]

539. Department's 278, October 10, 7 p.m. Foreign Office replies that information has now been received from the French Govern-

ment that it would be prepared if requested to waive all objection to the pledging of security by Greece in connection with the proposed refugee loan and, second, that His Majesty's Government has already signified its willingness similarly to waive its veto on the assignment of Greek security for this purpose.

WHEELER

868.48/683a : Telegram

The Secretary of State to the Chargé in Greece (Atherton)

[Paraphrase]

WASHINGTON, *December 29, 1923—4 p.m.*

84. The Red Cross has received various requests for its assistance in the Greek refugee situation to which the Department understands it is answering substantially as follows: [56]

"Your appeal to the Red Cross for assistance for the Greek refugees has been given careful consideration. It is the opinion of the Central Committee, as set forth at its recent meeting, that the conflicting evidence which has thus far been received does not indicate a situation of such an emergency character as would justify the Red Cross in making a fresh appeal to the public for contributions or in reopening its relief work in Greece.

It is fully appreciated that it will necessarily take a considerable period of time to effect the assimilation of the refugees in Greece and that in the meantime hardship and a degree of suffering is unavoidable. This is a situation, however, which exists not only in Greece but in many other parts of Europe.

It is felt from the information before the Red Cross that the principal work which remains to be done in Greece relates to the settlement of the refugees on the land and engaging them in occupations of a productive nature—a task continuing and not of the emergency character to which the foreign relief activities of the Red Cross must necessarily be confined."

Your comments on the attitude of the Red Cross are desired by the Department.

HUGHES

868.48/685 : Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, *December 31, 1923—5 p.m.*

[Received 11 p.m.]

187. I venture to suggest for consideration that the communication quoted in the Department's 84, December 29, 4 p.m., which expresses

[56] Quotation not paraphrased.

what I am led to believe is becoming the considered opinion of "all" Americans in Athens, be conveyed to Mr. Morgenthau by the Red Cross, together with some additional statement indicating that despite the necessary attitude of the American Red Cross in confining itself exclusively to emergency relief in foreign countries the information at hand fully encompasses the magnitude and the difficulties of the task of finding permanent occupations of productive nature for the unassimilated refugees.[57]

ATHERTON

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[57] A communication of the nature indicated was telegraphed by the Red Cross to Mr. Morgenthau.

GUATEMALA

DISAPPROVAL BY THE DEPARTMENT OF STATE OF A PROPOSED LOAN TO GUATEMALA BY A GROUP OF AMERICAN BANKERS

814.51 An 4/orig.

The Chargé in Guatemala (Hewes) to the Secretary of State

No. 412 GUATEMALA, *October 9, 1923.*

[Received October 23.]

SIR: I have the honor to report that Mr. Reuben A. Yerkes, special representative of the Anglo and London Paris National Bank of San Francisco, accompanied by Mr. Lionel Stahl, called at the Legation on October 8th and presented a printed draft of a contract for a loan of $8,000,000 to the Government of Guatemala by a group of American banks headed by the institution named above. The tentative agreement contemplates the establishment of a fixed monetary standard on a gold basis and provides for the organization of a central bank with a gold capital which will have the exclusive right of issuing currency in the Republic.

Mr. Stahl has informed me that President Orellana has already approved the proposed contract in principle and has submitted it to the Minister of Finance for an opinion. He stated that some opposition was expected from Mr. Solares and other members of the Government, including the Assembly, but it is evident he anticipates the conclusion of the negotiations without material alterations being made in the form of the contract.

Mr. Yerkes was able to give me only three copies of the English text and two in Spanish. There are accordingly enclosed two copies of the proposed contract in English and one in Spanish.[1] One copy in each language is retained for the files of the Legation.

I am [etc.] CLARENCE B. HEWES

814.51 An 4/orig. : Telegram

The Secretary of State to the Chargé in Guatemala (Hewes)

[Paraphrase]

WASHINGTON, *November 8, 1923—4 p.m.*

63. Legation's despatch of October 9, number 412.

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[1] Not printed.

You may inform Mr. Stahl or other bankers who may be concerned that the proposed loan and currency reform contract is considered by the Department to be fundamentally objectionable, and you may, in this connection, invite their attention to the statement which the Department gave to the press on March 3, 1922,[2] wherein the Department requested American firms who contemplated making foreign loans to inform it in due time concerning the chief features of the loan. While the Department does not desire to discuss this project in detail, it desires you to point out to the bankers the principal serious objections which are as follows:

First. The contract is one-sided and absolutely unfair, because, as the Department understands it, it obligates Guatemala to exchange $8,000,000 in bonds upon which there is a service of nearly $1,000,000 annually, for three hundred and forty million pesos of new paper money in the form of bank notes which the bankers will furnish. It sets forth how only $3,500,000 of the amount of the loan is to be applied, which amount is to be employed in connection with the projected currency reform. There is no evidence that this amount, which includes the $1,000,000 capital of the proposed bank, and the $2,500,000 reserve, will become the property of Guatemala, or that Guatemala will receive the income from the bank's capital. Because of a lack of specific stipulations it appears that the banks will retain the proceeds from the bonds over and above the amount of $3,500,000.

You may point out that a proper currency reform would not obligate Guatemala to establish funds equal to the full value of the outstanding currency, but only an amount which would constitute a suitable reserve.

Second. The loan will impose an annual additional load of almost $1,000,000 upon Guatemala which will make her financial condition worse, especially as the contract contains no provisions for refunding the floating and the internal debts.

Third. The plan will not establish an adequate financial and monetary reform, but on the contrary, will make said reform even more difficult at a later time.

Fourth. The project seems to conflict with the lien which the British bondholders have on the export tax on coffee.

You are likewise authorized to make known the views of the Department to the proper officers of the Government of Guatemala orally. You will make it clear, however, that the Government of the United States appreciates the importance to Guatemala of a proper financial reform, and is desirous of lending every proper assistance to Guatemala to that end, but it feels in all frankness that it ought to point out the great disadvantages which the proposed plan has to Guatamala.

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[2] *Foreign Relations*, 1922, vol. I, p. 557.

You are instructed to lend no assistance to the bankers in the promotion of the above-mentioned plan.

HUGHES

814.51 An 4/4 : Telegram

The Chargé in Guatemala (Hewes) to the Secretary of State

[Paraphrase]

GUATEMALA, *November 10, 1923—noon.*

[Received 7:45 p. m.]

92. Have complied with Department's no. 63, November 8, 4 p. m. Stahl reports that bankers will not continue negotiations without approval of Department; that contract will be modified to overcome Department's objections; and that explanations will be made soon for provisions in present contract. President and Minister for Foreign Affairs appreciate Department's solicitude for Guatemala's welfare.

HEWES

814.51 An 4/10

The Chargé in Guatemala (Hewes) to the Secretary of State

No. 452 GUATEMALA, *November 20, 1923.*

[Received December 1.]

SIR: I have the honor to refer to previous correspondence relative to the proposal of the Anglo and London Paris National Bank of San Francisco for a loan to the Guatemalan Government.

In this connection, I beg to enclose a copy of a letter of November 19th from Mr. Lionel Stahl [3] informing the Legation, from the point of view of the bankers, of the effect of the Department's representations as contained in its telegram no. 63 of November 8, 4 p.m. He requests, as will be observed in the third paragraph of his letter, that the Department notify this Government the representations did not imply the desire that all negotiations should be terminated. Mr. Stahl has repeatedly urged me to make this statement to President Orellana, but I have declined to do so, particularly in view of the inhibition contained in the last paragraph of your telegraphic instruction referred to above. I have said to him, however, that his request would be submitted to the Department for consideration.

I have [etc.] CLARENCE B. HEWES

[3] Not printed.

814.51.An 4/10

The Secretary of State to the Chargé in Guatemala (Hewes)

No. 664 WASHINGTON, *December 18, 1923.*

SIR: The Department has received your despatch No. 452 of November 20, 1923, with which you transmit a copy of a letter from Mr. Lionel Stahl discussing the effect of your communication to the Guatemalan Government of the Department's views regarding the loan contract proposed by Mr. Stahl and his associates.

The Department approves of your action in declining to discuss the loan proposition further with the Government of Guatemala. The statement of the Department's opinion as contained in its telegram of November 8, 4 p.m., was definite and final so far as the loan contract at present under discussion is concerned, and it is not felt that this statement requires any amplification or explanation at the present time.

. . . . . .

I am [etc.]

For the Secretary of State:
LELAND HARRISON

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 354 ff.)

HAITI

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND HAITI PROVIDING FOR THE ADMINISTRATION OF THE INTERNAL REVENUES OF HAITI

838.51/1506a : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *March 7, 1923—4 p.m.*

29. For General Russell.

Has President Borno issued decree providing funds for installation of internal revenue system?

HUGHES

838.51/1507 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *March 9, 1923—3 p.m.*

[Received March 10—10:35 a.m.]

29. Department's 29, March 7, 4 p.m. President Borno informs me that during recess of legislators it would be highly improper for him by decree to appropriate funds for the putting in force of a law which he has never seen and understands has not yet been drafted. He agreed to issue at once decree appropriating $10,000 for the preparation of internal revenue law, general accounting law and revision of tariff law. I believe if this amount found insufficient it can be later increased.

RUSSELL

838.51/1509 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *March 10, 1923—1 p.m.*

[Received March 11—11:40 a.m.]

31. President Borno informed me this morning that on further consideration he finds that it would be a violation of the Constitution for him to appropriate the $10,000 for the preparation of internal tax law et cetera, there being no law covering this subject and referred me to letter of General Receiver who in the case where $1,200

had been carried in budget for commission to revise communal taxes had refused payment on the ground that there was no law authorizing such commission and therefore violated Constitution. President then said that funds for the necessary work desired by Mr. Hord [1] could by the treaty properly be charged to 5 percent fund as expenses of Financial Adviser's office and that he authorized such a charge at once.

RUSSELL

838.51/1556 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *June 15, 1923—1 p.m.*
[Received 9:15 p.m.]

81. I informed President Borno that it would be useless to proceed with drafting of internal revenue laws unless the question of control was definitely settled and that in my opinion such control must be placed absolutely in American hands. President Borno informed me that he was of the same opinion.

I thereupon stated that I would shortly have a project to present to him.

Believe an agreement should be made cover this question and one or two others in connection therewith. I will shortly be able to submit the general terms proposed to the Department.

RUSSELL

838.51/1566 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *June 28, 1923—6 p.m.*
[Received June 29—10:12 a.m.]

88. It is my opinion that before presentation of the internal revenue law to the Haitian Government American control of all internal revenues should be assured during the life of the treaty by an agreement between the two Governments.

In my instructions from the Department dated November [*February*] 11th, 1922,[2] page 5, the consolidation of the offices of Financial Adviser and General Receiver is suggested. Recently President Borno suggested to me such amalgamation. In my opinion the time is now ripe for taking such action and in the proposed agreement I have embodied that idea. I have furthermore developed a

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[1] John S. Hord, Financial Adviser of Haiti.
[2] *Foreign Relations*, 1922, vol. II, p. 461.

chain of authority that will cover all financial activities and [will] not extend the objects and aims of the treaty and protocol.

It is my belief that this is of the gravest importance to the future welfare of Haiti and that this is the moment to finally readjust and reorganize it, putting financial control on a firm basis, with a reduction of salaries.

After careful consideration I have to submit the following draft of a proposed agreement:

"In pursuance of the objects of the treaty concluded September 16th, 1915, between the United States of America and the Republic of Haiti,[3] the Government of the United States and the Government of Haiti, through duly authorized representatives, agree upon this accord for the purpose of carrying out more fully the objects of the aforesaid treaty and the protocol of October 3rd, 1919.[4] It is clearly understood that this agreement does not in fact or by implication extend the provisions of the treaty herein before mentioned.

ARTICLE 1. The functions and offices of Financial Adviser and General Receiver of Customs as set forth in article 2 of the treaty of September 16, 1915, are hereby consolidated. The official to occupy this office shall, upon nomination by the President of the United States, be appointed by the President of Haiti and be designated 'the Financial Adviser and General Receiver of the Republic of Haiti'.

ARTICLE 2. The following aids and assistants to the Financial Adviser and General Receiver shall be nominated by the President of the United States and be appointed by the President of Haiti. Such aids and assistants shall include: (1) the Auditor, (2) the Collector of Internal Revenue, (3) the Collector of Customs, (4) the Chief Deputy Collector of Internal Revenue. They will take precedence in the order named.

ARTICLE 3. The duties of the aids and assistants enumerated in article 2 of this agreement shall include the following:

The Auditor: To be chief of the Division of Audit and, under the supervision of the Financial Adviser and General Receiver, to devise and put into effect an adequate system of audit of all revenues and expenditures. The rulings of the auditor on matters of audit shall not be subject to revision by the Financial Adviser and General Receiver of the Republic of Haiti.

The Collector of Internal Revenue: To be chief of the Division of Internal Revenue and to be charged with the direction, supervision and control of said division as well as the administrative interpretation of the internal revenue law of 1923. To have the authority to impose and collect administrative fines and declare and enforce the necessary regulations for the administration of the law. Under the direction of the Financial Adviser and General Receiver he shall supervise and control all collections of internal revenue during the life of the treaty of September 16th, 1915.

The Collector of Customs: To be chief of the Division of Customs and to be charged with the collection and deposit in the national

[3] *Ibid.*, 1916, p. 328.
[4] *Ibid.*, 1919, vol. II, p. 347.

treasury of all customs duties on imports and exports accruing at the several customhouses and ports of entry of the Republic of Haiti.

The Chief Deputy Collector of Internal Revenue: To be assistant chief of the Division of Internal Revenue and to perform such duties as may be assigned to him by the chief of the division and contained in the laws and regulations pertaining to the internal revenue division.

ARTICLE 4. The expenses of the receivership, including the salaries and allowances of the Financial Adviser and General Receiver, the salaries and allowances of the officials named in article 2 of this agreement, the expenses incident to the auditing of accounts, the disbursing of funds, the collection of the internal revenue and the collection of customs duties, shall not exceed the total of 5 percent of the collections and receipts from the custom duties plus 10 percent of the collections and receipts from the internal revenues, unless by agreement by the two Governments.

ARTICLE 5. The salaries and allowances of the Financial Adviser and General Receiver shall be as follows: salary $6,000 per annum, allowances $4,000 per annum; all in United States currency.

The Auditor, the Collector of Internal Revenue and the Collector of Customs Duties shall each receive an annual compensation in United States currency of; salary $4,000, allowances $2,000.

The Chief Deputy Collector of Internal Revenue shall receive an annual compensation in United States currency of: salary $3,000, allowances $1,000.

ARTICLE 6. All internal revenues, customs duties on imports and exports accruing at the several customhouses and ports of entry of the Republic of Haiti, fines, seizures and forfeitures collected, shall be deposited as, and when collected, in the Banque Nationale de la République d'Haiti to the credit of the General Receiver.

ARTICLE 7. The aids, under-assistants and employees not designated in article 2 of this agreement shall be appointed by the chief of the respective divisions."

. . . . . .

RUSSELL

838.51/1572

The High Commissioner in Haiti (Russell) to the Secretary of State

[Extract]

No. 188 PORT AU PRINCE, *July 10, 1923.*

[Received July 18.]

SIR: I have the honor to report that the Committee composed of the Minister of Finance, the Financial Adviser and the General Receiver of Customs, has completed its work on the internal revenue law. A copy of the proposed draft of law has been furnished me by the Financial Adviser and is now being carefully considered by this Office. It is not my intention to present this draft of law

to the Haitian Government until an agreement between the two governments has been effected forming the basis for the law.

. . . . . .

I have [etc.] JOHN H. RUSSELL.

838.51/1569 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *July 25, 1923—5 p.m.*

82. For General Russell.

Your June 28, 6 p.m. and July 12, 1 p.m.[5] The Department concurs with your recommendation that the control of the internal revenues and the reorganization of the treaty officials connected with Haiti's finances should be effected by an agreement between the two Governments. It appears doubtful whether the offices of Financial Adviser and General Receiver could be consolidated under the terms of the treaty, but there appears to be no objection to an agreement providing for the appointment of the same man to both positions, so long as the agreement preserves the identity of the two offices. Since the treaty does not contemplate the appointment of aids to the Financial Adviser it seems better to make all of the officials provided for by the new agreement aids to the General Receiver. These aids, like all other aids and employees of the General Receiver, must, under Article 2 of the treaty, be appointed by the President of Haiti upon nomination of the President of the United States. The Department desires, however, that the same procedure should be followed as in the case of other American officials serving in Haiti; namely, that the General Receiver, through you, should request the nomination of certain individuals as aids, in order that the Department may recommend such nominations to the President.

The Department authorizes you to enter into an agreement with the Haitian Government as outlined in your June 28, 6 p.m., with the following changes:

PREAMBLE: Unchanged.

ARTICLE I. The offices of Financial Adviser and General Receiver of Customs as established by Article II of the Treaty of September 16, 1915, may henceforth be filled by the same person, if the President of the United States should nominate the same person for appointment by the President of Haiti to both positions.

ARTICLE II. The following officials shall be appointed by the President of Haiti upon nomination by the President of the United States as aids to the General Receiver: (1) The Auditor; (2) The Collector of Internal Revenue; (3) The Collector of Customs; (4)

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[5] Not printed; see footnote 6, *infra*.

The Chief Deputy Collector of Internal Revenue. They will take precedence in the order named.

ARTICLE III. Unchanged, except that expression "Financial Adviser and General Receiver" should be changed in each case to "General Receiver", except where reference is made to revision of rulings of Auditor, where it should read "Financial Adviser or The General Receiver", and that "the internal revenue law of 1923" should be changed to "internal revenue laws".

ARTICLE IV. Unchanged.

ARTICLE V. In the event that the same person is appointed to occupy the positions of Financial Adviser and General Receiver he shall receive the following salary and allowances: salary $6,000 United States currency per annum; allowances $4,000 United States currency per annum.

If different persons should be appointed to occupy the positions of Financial Adviser and General Receiver they shall receive the following salaries and allowances: Financial Adviser, salary $6,000 United States currency per annum; allowances $4,000 United States currency per annum. General Receiver, salary $5,500 United States currency per annum; allowances $3,500 United States currency per annum. Rest of article from second paragraph on unchanged.

ARTICLE VI. Unchanged.

ARTICLE VII. The aids and employees in the office of the Auditor, and of the Collector of Internal Revenue, shall be appointed, like other aids and employees of the General Receiver, by the President of Haiti upon nomination by the President of the United States.

ARTICLE VIII. As suggested in your July 12, 1 p.m.[6]

ARTICLE IX. This agreement supersedes the agreement of June 27, 1916,[7] regarding the salaries and expenses of the officials appointed in accordance with Article II of the treaty.

It is desired also that you should draft an additional article to be inserted after Article VI to make provision for the disbursement by the General Receiver of funds placed at disposition of Haitian Government under Article V of the treaty, and of extraordinary receipts, such as the proceeds of loans; and to make clear his obligation, either in his capacity as General Receiver or as Financial Adviser, to refuse payment of items not authorized by law. This is necessary because the treaty makes no provision for disbursement of extraordinary receipts by Receiver General. The additional article, which must of course be in accord with Article V of the treaty, should be transmitted to the Department by telegraph for its consideration.

. . . . . .

The Department desires that you should forward a copy of the proposed internal revenue law as soon as possible.

HUGHES

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[6] Not printed. The High Commissioner suggested an article embodying the first four lines of art. IX of the treaty of 1915, replacing the word "customs" by the words "internal revenue".

[7] *Foreign Relations*, 1916, p. 332.

838.51/1584

Memorandum by Mr. Dana G. Munro of the Division of Latin American Affairs, Department of State

[WASHINGTON,] *August 30, 1923.*

General Russell tells me that President Borno objects to the proposed agreement reorganizing the American treaty officials connected with Haiti's finances and giving the United States control over the collection of internal revenue, because he fears that the signature of an agreement which might be regarded as extending the treaty would subject him to serious criticism at home. President Borno has suggested therefore, that the control of the internal revenues by the United States be granted by means of a law. Neither General Russell nor I consider that a law would establish the internal revenue system on a sufficiently sound basis, although the law might be accepted as a last resort. Under the Haitian constitution tax laws have to be reenacted each year. Consequently, unless there was an international agreement preventing a reduction of the internal revenue taxes, the Haitian legislature could destroy the internal revenue system at any time simply by failing to vote the necessary law.

President Borno has also objected to the establishment of an American auditor, believing that this official should be a Haitian under the Minister of Finance. It does not seem necessary to insist upon the inclusion of the auditor in the proposed agreement, since an official to do this work can be nominated simply as one of the aids of the General Receiver in accordance with the Treaty.

General Russell has seen and approved this telegram.[8]

MUNRO

838.51/1584 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *September 2, 1923—noon.*

107. General Russell has discussed with the Department President Borno's views regarding the proposed agreement for the reorganization of officials connected with Haitian finances and it has given careful consideration to the suggestion that the internal revenue system should be established by law rather than by an agreement. The Department feels that an agreement between the two Governments is necessary for the proper establishment of the internal revenue system because the adoption of a law which could be altered at any time by the Haitian legislature would not afford sufficient

[8] See *infra*.

assurance of stability in the system to be established. An agreement appears to be necessary to define the position of the American officials to be appointed in connection with the internal revenue system. The Department therefore hopes that President Borno may reconsider his objections to the proposed agreement and that the discussion of the agreement may be expedited so that it can be signed before the next meeting of the Council of State.

In view of President Borno's objection to the establishment of the position of Auditor, the Department is willing that the portion of the proposed agreement relating to this official should be struck out.

PHILLIPS

711.38/198

Memorandum by Mr. Dana G. Munro of the Division of Latin American Affairs, Department of State, for the Chief of the Division (White) on the Appointment of Subordinate Haitian Officials

[WASHINGTON,] *September 12, 1923.*

I discussed this matter with General Russell when he was here and he feels that it would save a considerable amount of time if he were able to make the nominations for subordinate positions in the *Gendarmerie* and other treaty services. At the present time these nominations involve much routine work which serves no really useful purpose. The High Commissioner submits the names to us and we submit them to the Navy for approval. After hearing from the Navy we submit the names to the President, and on receiving his approval we write again to the Navy and to the High Commissioner, who subsequently takes up the matter with the President of Haiti. In all this the Department merely transmits the High Commissioner's recommendations without knowing anything about the men nominated and without having any practical means of finding out about them. This purely routine work imposes quite a burden on this Division, and the burden will be increased when it is necessary to transmit nominations for positions in the customs service as well.

After consulting with Mr. Baker, therefore, I have drafted the attached letter to the President asking his authorization to permit the High Commissioner to act in his name in submitting nominations to the President of Haiti.[9]

D[ANA] G. M[UNRO]

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[9]Attached letter not printed; the President gave his authorization Sept. 29.

711.38/200

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 136 WASHINGTON, *November 22, 1923.*

SIR: You are informed that the President has expressed his willingness that the American High Commissioner at Port au Prince should act in his name, without prior consultation with this Department, in presenting to the President of Haiti the nominations of subordinate officials to be appointed in accordance with the provisions of Articles II, X and XIII of the Treaty of September 16, 1915, between the United States and Haiti. You are authorized henceforth to present these nominations to the President of Haiti in the name of the President of the United States, without submitting the requests for the nominations through the Department.

Nominations of higher officials, including the Financial Adviser, the General Receiver and Deputy General Receiver of Customs, the Chief of the *Gendarmerie*, the Engineer-in-Chief, the Sanitary Engineer, the Agricultural Engineer and the Assistant Agricultural Engineer, together with the nominations of the officials provided for in Article II of the proposed agreement regarding the reorganization of the treaty officials connected with finances, if that agreement is consummated, will continue to be submitted by the Department to the President for approval, and you are requested to notify the Department promptly when a vacancy is about to occur in one of these positions, and to communicate to the Department any suggestions which you may have to make for filling the vacancy.

When the High Commissioner is absent from his post the duty of presenting nominations in the name of the President of the United States to the President of Haiti will be performed, like other duties of the High Commissioner, by the Chargé d'Affaires.

In the case of the customs service it is desired that all officials holding positions of authority and trust should be nominated to the President of Haiti in the name of the President of the United States in the manner above outlined. It is not believed that a liberal interpretation of the Treaty would require that the employees of the customs service who do not hold positions of authority and trust should be appointed upon the nomination of the President of the United States, and consequently, if there is no objection to this course on the part of the Haitian Government, this Government is willing that the minor employees of the customs service should be appointed by the Receiver General of Customs on his own responsibility.

In the case of those positions which are filled by officers and enlisted men of the United States Navy, the Department is informed by the Secretary of the Navy that the following procedure should be followed:

The High Commissioner, or the Chargé d'Affaires in the High Commissioner's absence, should submit to the Chief of the Bureau of Navigation in the case of naval personnel, and to the Major General Commandant in the case of Marine personnel, the names of the officers proposed for duty and acceptable to the Haitian Government, and the names of officers to be detached from duty with the Haitian Government. The Chief of the Bureau of Navigation and the Major General Commandant will issue the necessary orders.

In case enlisted men of the Navy are desired for service with the Haitian Government, the Navy Department requests that the selection be made from men serving with the Marine Brigade in Haiti who would be acceptable to the Haitian Government. Should the enlisted men thus nominated be available, the necessary orders will be issued by the Chief of the Bureau of Navigation. If it is impossible to make selections from the men serving with the Marine Brigade in Haiti, the Navy Department stated that the Bureau of Navigation will be pleased, upon the request of the High Commissioner, to order men to report to him for this prospective duty.

The enlisted men of the Marine Corps to be appointed to duty under the Haitian Government need not be referred to the Major General Commandant.

In the case of requests for nominations which may already have been transmitted by you to the Department before the receipt of this instruction, the Department will ascertain in the usual manner from the Secretary of the Navy whether the proposed nominations meet with his approval, and will then inform you, in order that you may make the nominations in the President's name to the President of Haiti.

I am [etc.] CHARLES E. HUGHES

838.51 A/29 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *December 15, 1923—3 p.m.*

49. Please inform Dr. Cumberland [10] that his appointment as Financial Adviser and General Receiver of Customs of Haiti has

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[10] W. W. Cumberland, Financial Adviser and Director of Customs of Peru, also manager of the Reserve Bank of Peru.

been approved by the President. It is desired that Dr. Cumberland assume his duties in Haiti as soon as possible. Can he arrange for his release from his present position without giving the full amount of notice that his contract requires? You are authorized to use your good offices, unless you deem it inadvisable to do so, in effecting such an arrangement.

Dr. Cumberland will not find it necessary to come to Washington before proceeding to Port au Prince. As the appointment is made under the treaty, there is no contract to sign. The Department prefers to have Dr. Cumberland proceed directly to Port au Prince via Panama, in view of the extra time which would be consumed in a voyage up the east coast and the probable difficulty of reaching Haiti by that route without having to come to the United States, but if Dr. Cumberland desires to proceed by that route, the Department will not insist.

The Department wishes to be informed whether Dr. Cumberland's contract provides that the Peruvian Government pay his salary while returning home.

HUGHES

838.51A/33 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, *December 26, 1923—6 p.m.*
[Received 10 p.m.]

60. Cumberland accepts Haiti appointment and will go from here direct to Haiti via Panama. Served notice December 20th under contract with bank. Has not yet received a definite answer to his request for release from 60 days' notice provision of contract. President promises his influence to aid Cumberland's early release.[11]

POINDEXTER

838.51/1626

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 310 PORT AU PRINCE, *February 21, 1924.*
[Received February 29.]

SIR: I have the honor to transmit herewith for the Department's information copies of the texts of notes exchanged with the Haitian

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[11] Dr. Cumberland assumed the duties of Financial Adviser of Haiti on Feb. 4, 1924, and of General Receiver on Apr. 1, 1924.

Government in regard to the agreement arrived at in connection with the establishment of the "Administration Générale des Contributions", my note to the Haitian Government dated January 3, 1924, and the note in reply from the Secretary of State for Foreign Affairs dated February 14, 1924.

I have [etc.] JOHN H. RUSSELL

[Enclosure 1]

The American High Commissioner (Russell) to President Borno

[PORT AU PRINCE,] *January 3, 1924.*

EXCELLENCY: With a view to aiding and assisting the Haitian Government in carrying out the provisions of the Treaty of September 16, 1915, and in order to give effect to the provisions of the Protocol of October 3, 1919, my government has authorized me to propose to Your Excellency the following mode of procedure with regard to the appointment of the personnel of, and the disposition of the funds to be collected by, the "Administration Générale des Contributions" which is to be established by a law soon to be presented to the Council of State:

1. The President of Haiti shall make all appointments to the "Administration Générale des Contributions" created by the Law of Contributions of 1924 upon previous agreement between the Secretary of State for Finance and the General Receiver of Customs.

2. The Director General of the "Administration Générale des Contributions" shall receive a salary of five thousand dollars (5,000.00) per annum and an allowance of two thousand five hundred dollars ($2,500.00) per annum for expenses. The other employees of The "Administration Générale des Contributions" shall receive such salaries as may be fixed by law upon recommendation of the Secretary of State for Finance in accord with the General Receiver of Customs.

3. All amounts collected under the Internal Revenue Laws shall be placed to the credit of the General Receiver in the Banque Nationale de la République d'Haiti to be applied by him in accordance with Article V of the Treaty of September 16, 1915.

If Your Excellency will be so good as to signify the assent of Your Government to this arrangement, I will be pleased to inform my Government accordingly.

I might at the same time inform Your Excellency that my Government desires it to be clearly understood that this arrangement does not in fact nor by implication extend the provisions of the Treaty of September 16, 1915, above mentioned.

I take [etc.] [JOHN H. RUSSELL]

[Enclosure 2—Translation]

The Haitian Minister for Foreign Relations (Leon) to the American High Commissioner (Russell)

PORT AU PRINCE, *February 14, 1924.*

MR. HIGH COMMISSIONER: His Excellency the President of the Republic has transmitted to me your letter of January 3, 1924 relative to the new Bureau the creation of which the Government has proposed to the Council of State, under the name of "Administration Générale des Contributions".[12]

I have the honor to officially bring to your knowledge that it is understood:

1. That the President of Haiti shall make all nominations in the Administration Générale des Contributions, after previous agreement between the Secretary of State for Finance and the General Receiver of Customs.

2. That the Director General of the Administration Générale des Contributions shall receive, yearly, a salary of Five Thousand Dollars and an allowance of Two Thousand Five Hundred Dollars for expenses.

The other employees of this Service shall receive a salary to be fixed by law upon the recommendation of the Secretary of State for Finance in accord with the General Receiver of Customs.

3. That the total of all imposts and taxes collected in accordance with the law by the Administration Générale des Contributions shall be placed to the credit of the General Receiver in the Banque Nationale de la République d'Haiti to be applied by him in conformity with article 5 of the Treaty of Sept. 16, 1915.

Accept [etc.] CAMILLE LEON

ORGANIZATION OF THE HAITIAN CLAIMS COMMISSION[13]

838.00/209 : Telegram

The Chargé in Haiti (Dunn) to the Secretary of State

PORT AU PRINCE, *January 20, 1923—4 p.m.*
[Received January 22—9:55 a.m.]

10. General Russell's 160, December 14, noon.[14] Members of Claims Commission sworn yesterday. It is the view of the Haitian Government that each member should be president in turn holding that office during periods of one month.

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[12] The law creating the bureau was promulgated June 6, 1924.
[13] Continued from *Foreign Relations*, 1922, vol. II, pp. 535–553.
[14] *Ibid.*, p. 552.

American member considers Saavedra ineligible because of temporary character of his appointment and states that Leger will be disqualified to sit in cases with which he has been connected as counsel or otherwise; also believes that foreign claimants would protest selection of Haitian member as president of commission. Financial Adviser concurs in views.

For the guidance of the American member the Department's views in the matter are requested.

DUNN

438.00/209 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *January 30, 1923—6 p.m.*

18. Your January 20, 4 p.m.

Without making representations yourself to Haitian Government at this time you may inform Mr. Stanley [15] that the Department considers that it would be preferable that the American member of the Commission should be President. In any event the appointment of the Financial Adviser's appointee as President would seem inappropriate because of temporary tenure. Department believes that this matter, however, should be settled by Commissioners themselves.

HUGHES

438.00/215 : Telegram

The Chargé in Haiti (Dunn) to the Secretary of State

PORT AU PRINCE, *January 31, 1923—6 p.m.*

[Received February 1—11:10 a.m.]

18. Department's 18, January 30, 6 p.m. The President [sent] for me this morning and asked the view of the Department as to the presidency of the Claims Commission. I informed him that it was my opinion that Department would consider the American member as preferable. He then stated that he would not be favorable to such a procedure and that he considered it highly desirable each member of the commission being president for periods of one month. He asked me to request Mr. Stanley to agree to his plan of rotation.

Mr. Stanley states that in his opinion the American member must have the controlling voice in the proceeding[s] of the commission to insure adjudication of the claims within the time limit provided by

[15] John H. Stanley, nominated by the Secretary of State as American member.

the protocol. If otherwise constituted he believes that the efficiency and standing of the commission would be materially impaired. Mr. Stanley is of the opinion that his views as expressed above reflect the wishes of the Department. Financial Adviser concurs in Mr. Stanley's views and believes that rotation plan would prolong the work and be needlessly expensive to the Haitian Government.

As the matter now stands the members of the Commission are unable to agree upon a president.

[No signature indicated]

438.00/215 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *February 3, 1923—6 p.m.*

20. Your January 31, 6 p.m. You may discuss question informally with Mr. Stanley and tell him that it is the view of the Department and of General Russell that it would be far preferable to reach a compromise regarding the presidency of the Claims Commission than to continue a dispute which can only leave bad feeling. It is believed that the best solution would be to have the American and Haitian members, as representatives of parties to the protocol, alternate in the presidency, with the understanding that Mr. Stanley should preside at any time when Mr. Leger might withdraw temporarily because of personal interest in claims under consideration or because of sickness. Department considers it highly important that this matter should be arranged in a way which will promote harmonious working of the Commission.

HUGHES

438.00/216 : Telegram

The Chargé in Haiti (Dunn) to the Secretary of State

PORT AU PRINCE, *February 6, 1923—11 a.m.*

[Received 8:45 p.m.]

21. Department's 20 February 3, 6 p.m. The Claims Commission has been formally constituted with the following form of organization: The Haitian member is to preside over the debates and the American member is to preside over the deliberations. The debates are understood to include all public hearings and the deliberations are understood to include all other meetings of the commission. This compromise has been agreed to by the American member in conformity with the views of the Department and of General Russell as expressed in the Department's 20, February 3, 6 p.m.

This arrangement is viewed with general satisfaction and in view of the friendly relations existing among the commissioners I see no reason why the workings of the commission should not move right in entire harmony.

DUNN

438.00/220a : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *March 2, 1923—5 p.m.*

27. French Embassy informs Department that French Minister in Port au Prince acted without approval of his Government in demanding settlement of French claims solely in accordance with arbitration convention of 1913.[16] Negotiations regarding French claims are still proceeding in Washington[17] and an early settlement satisfactory to all concerned is confidently expected.

HUGHES

438.00/192 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *March 7, 1923—3 p.m.*

28. For General Russell.

Your December 9, 1 p.m.[18] and December 29, noon.[19] Department feels that the Haitian Government is justified under Article 439 of the Treaty of Versailles in assuming the position that Germany may not present diplomatic claims arising from events prior to the treaty and may not make any diplomatic appeal from the awards of the Claims Commission. It feels, however, that Haiti owes a strong moral obligation towards German claimants, not as German nationals but as private individuals, if these claimants bring forward just debts arising out of transactions not connected with Haiti's participation in the war. It believes that these debts should be presented, like other claims, by the private owners for the consideration of the Claims Commission, and on terms as favorable as accorded other aliens.

In view of the above, and since there may presumably be German claims arising out of events subsequent to the war and therefore on exactly the same footing as other foreign claims, the Department has arranged with the Financial Adviser to nominate Mr. Edmund

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[16] See telegram no. 140, Nov. 16, 1922, from the High Commissioner in Haiti, *Foreign Relations*, 1922, vol. II, p. 549.

[17] Between the French Embassy and the Haitian Legation.

[18] *Foreign Relations*, 1922, vol. II, p. 552.

[19] Not printed.

Helmcke for appointment by the Haitian Government as member of the Claims Commission while German claims, except those in which Mr. Helmcke is interested, are under consideration. Helmcke was suggested by German Government at Department's request.[20]

Department feels the procedure above outlined, which would demonstrate the Haitian Government's desire to do justice to all of its creditors, would be that which is most in accord with fairness and sound financial policy, and it hopes that the Haitian Government will share its views.

HUGHES

438.00/223a : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *March 21, 1923—5 p.m.*

32. For General Russell.

The French Embassy and the Haitian Minister have practically reached an agreement covering all points of the proposed exchange of notes regarding the submission of French claims to the Claims Commission, with the exception of the question of the right of appeal for claims arising subsequent to 1913. Appeals from awards of Claims Commission in case of claims arising prior to 1913 will be submitted to arbitral tribunal constituted under protocol of that year.

The Department is informed that the French Embassy will give up its demand for the right of appeal to the arbitral tribunal for claims arising subsequent to 1913 if it is clearly stated in the exchange of notes that awards on such claims will be subject to right of appeal through diplomatic channels. The Embassy proposes inclusion of the following paragraph in the exchange of notes:

"So far as claims subsequent to 1913 are concerned the French Government reserves the absolute right to have recourse to diplomatic channels to obtain revision of awards which may not appear to it to be satisfactory."

Monsieur Dejean [21] has informed the Department that he is willing to accept this provision providing his Government approves, but that he has recommended that a clause be added providing that such diplomatic representations shall not lead to a demand for further arbitration. He has submitted the proposal with his suggestion to President Borno, but he has informed the Department informally that he is willing to waive his own suggestion and to accept the

[20] See the Secretary's telegram no. 114, Nov. 23, 1922, and the High Commissioner's reply, telegram no. 146, Nov. 25, *Foreign Relations*, 1922, vol. II, p. 551.

[21] The Haitian Minister for Foreign Affairs, on special mission in the United States, became Haitian Minister at Washington, Mar. 2, 1923.

French proposal as it stands if his Government authorizes him to do so. Please discuss the matter with the President, urging him to accept the French proposal as it stands in the interests of a prompt settlement.

The Department understands that both Great Britain and Italy have made reservations regarding acceptance of awards of Claims Commission. See British Embassy's note of December 8, 1922, transmitted in Department's instruction of December 15,[22] and the note of March 11, 1922, from the Italian Minister at Habana to the Haitian Minister of Foreign Affairs, transmitted in your despatch of May 4.[23] If Department's understanding is correct you should remind the President of reservations made by other governments and suggest that there would appear to be no reason for not permitting right of diplomatic appeal in case of French claims.

Please inform Department what action, if any, was taken regarding communications of Italian and British Governments above mentioned.

HUGHES

438.00/226 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *March 26, 1923—9 a.m.*
[Received 9:15 p.m.]

42. Department's March 21, 6 [*5*] p.m. President Borno informs me he will telegraph to Monsieur Dejean today to accept French proposal without reservation. He further stated that recourse to revision through diplomatic channels would extend to other foreign governments having claims. His interpretation is that if in proceedings of Claims Commission foreign delegate files minority report disagreeing with other two delegates then the foreign government [if it] so desires to [*may*] take up claim through diplomatic channels.

RUSSELL

438.00/229 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *April 3, 1923—1 p.m.*
[Received 2:43 p.m.]

47. Department is informed that the opinion of Judge Strong, legal adviser, in which I concur, is that jurisdiction of Claims Com-

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[22] *Foreign Relations*, 1922, vol. II, p. 552.
[23] Not printed; see Department's instruction no. 508, June 6, to the Chargé in Haiti, *ibid.*, p. 536.

mission is limited to pecuniary claims pending on the date of the exchange of the ratifications of the treaty, May 3, 1916.[24]

RUSSELL

438.00/230 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *April 6, 1923—1 p.m.*
[Received 7:45 p.m.]

49. Claims Commission at this time is unable to state definitely probable maximum of claims but it informs me that it may run as high as six or seven million dollars.

After exchanging for interior bonds 1912, 1913 and 1914, A, B, C, there will remain about $3,053,000 series B bonds.

The Claims Commission now wishes to make awards and rules for the method of payment. Probably such rules will call for 60 or 70 percent of payments in bonds and remainder in cash thus conserving as much as possible the loan money for development work. To make such a rule now and a year or a year and a half from now find out that the series B issue was exhausted would necessitate a change in the rule and entire payment in cash thus limiting our development work or the issue of a new series of bonds series C which possibly would not have the same standing in public opinion as series B and might affect materially the work of the Claims Commission.

Therefore it has been suggested by the Financial Adviser that the series B issue, none of which has yet been printed, be increased to $8,000,000.

This amount would be ample to permit the Claims Commission to make the regulations it desires governing the method of payment.

The saving to the Haitian Government necessarily would be great as series B bonds are quoted at 70.

The increase in the series B issue would be undertaken solely to facilitate the work of the Claims Commission and on the conclusion of its awards all remaining bonds of that series would be canceled.

Legislative action would be necessary to amplify the issue. The Council of State is now in session.

The Financial Adviser informed you in his opinion the increase if any can be met by the current revenues.

I strongly recommend approval direct immediate action in order that if the Department approves I can at once take up the matter with President Borno.

RUSSELL

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[24] *Ibid.*, 1916, p. 328.

438.00/229 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *April 7, 1923—3 p.m.*

43. For General Russell.

Your April 3, 1 p.m. Department is disposed to concur in the opinion of Judge Strong that the jurisdiction of the Claims Commission is limited to claims pending on the date of the ratification of the treaty. Please report what practical effect a decision of this nature would have upon the general program of financial reorganization. Are there any important claims originating since 1916? Cable this information at once, in order that Department may consider advisability of proposing other means for settlement of claims since 1916, if necessary. If you have not already discussed question with Haitian Government, Department prefers that you should not do so until after it has considered your report on above.

HUGHES

438.00/230 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *April 11, 1923—3 p.m.*

44. For General Russell.

Your April 6, 1 p.m. Department does not feel that authorization of increase in public debt could be justified at the present time, in view of the provisions of Article 8 of the treaty of 1915. Statistics available would appear to indicate that the Haitian Government will not be able to meet the service of the loans already authorized and the current expenditures of the Government under the budget recently adopted, unless there is an increase in its revenues. In this connection see figures presented in Department's May 24, [1922] 2 p.m.[25] The budget recently adopted apparently contemplates total expenditures at the rate of $4,914,000 per year, including debt service. This amount exceeds the average annual revenues of the first six years of the American occupation and is only $50,000 less than the total revenues of the last fiscal year. The increase of the Series B issue to $8,000,000 would involve an additional charge of $210,000 per year.

It is not deemed safe to assume that the present increase in the revenues will continue, or that the proposed internal revenue legislation, making possible a permanent increase, will be passed without material delay. Pending such a permanent increase it would not

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[25] *Foreign Relations*, 1922, vol. II, p. 495.

be safe to assume obligations which cannot be met from present revenues.

The Department feels, therefore, that the Claims Commission should make its plans on the basis of the issue of "B" bonds as now authorized. This will leave a considerable sum for public works, which may be augmented if the claims now pending are scaled down to any extent. The surplus revenues received during the last few months would also appear to be available for such purposes as the Haitian Government in accord with the Financial Adviser may deem advisable. After the new revenue legislation has been adopted and Haiti is in a position to assume further obligations, the issue of a new series of the loan might properly be considered.

The Department deeply regrets the fact that there will not be a larger sum available for public works from the present loan, but it feels that it would be extremely dangerous to rely upon an increase in the present revenues sufficient to justify the assumption of new obligations.

HUGHES

838.00/231 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *April 12, 1923—10 a.m.*
[Received 5:20 p.m.]

53. Department's April 7, 3 p.m. There are now before the Commission claims amounting to about $60,000 which originated after the ratification of the treaty. German claims are only foreign claims so far presented. Other foreign claims will probably include some after 1916. Do not believe decision limiting jurisdiction to ratification of treaty would have any material effect on financial reorganization program. Financial Adviser concurs with me in the above.

RUSSELL

838.00/231 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *April 14, 1923—4 p.m.*

47. For General Russell.

Your April 3, 1 p.m., and April 12, 10 a.m. You may inform Haitian Government that this Government considers that the jurisdiction of the Claims Commission extends only to those claims pending on the date of the ratification of the treaty. If the Haitian

Government concurs in this view the Department will notify those foreign governments whose nationals have claims to submit to the Commission.

HUGHES

438.00/232 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *April 19, 1923—1 p.m.*
[Received April 21—10:25 a.m.]

59. Department's 44, April 11, 3 p.m. Based on customs collections for first six months of current fiscal year the revenues will exceed previous annual revenues heretofore collected by $500,000.

By the time the increased revenues for the service of the $3,000,000 series B bonds begin to be needed the pending revision of the custom imports will have resulted in a substantial increased allowance in the collection of such duties.

The guaranty for the service of the additional $3,000,000 will be acceptable especially as (*a*) the total sum for service will not be required at the end of three years and perhaps not at all; (*b*) any service whatever on the bonds will not begin for at least one and one-half years; (*c*) there will be ample time during this period of one and one-half years to establish an internal revenue tax of sufficient productivity to supply the service of the initial part of the loan; (*d*) by the time the total loan is floated, as in three years, the returns from the internal taxes will be ample to cover the service of the entire $3,000,000 additional B bonds and certainly of the two or two and a half millions which in all probability is all that will be needed.

A communication from President Borno just received authorizes the expenditure by the Financial Adviser of a sum not to exceed $30,000 from the reserve funds of the General Receiver for the preparation and other useful purposes connected with the installation of the internal revenue law and further states that said sum will be reimbursed from the first collections made under operation of the internal revenue law or from the general funds. Adviser is now undertaking immediate preparation of law to be enacted by the Council of State during this session. President Borno has informed me that the Council of State was favorable to such a law. The Haitian Government will be advised that no additional series B bonds will be floated pending the enactment of a Haitian internal revenue law monetary satisfactory productivity [*satisfactorily productive monetarily?*].

In view of the above urgently recommend reconsideration of my number 52 [*49*], April 6, 1 p.m. and that the Department authorizes increase of issue.

Inability of Claims Commission to apportion its awards until decision is given makes this question most urgent. Financial Adviser strongly recommends that this program be followed.

RUSSELL

438.00/232 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *April 26, 1923—6 p.m.*

52. For General Russell.

Your April 19, 1 p. m. Department has very carefully considered your arguments in favor of an increase in the series "B" issue and has of course given weight to your advice and that of the Financial Adviser. It does not, however, feel that it would be justified in consenting to a further increase of the Haitian public debt at the present time. It is too early to assume that the present increase in customs revenues will be permanent and it seems extremely inadvisable to make calculations based on the new internal revenue law until that law has finally been put into effect. The Department appreciates the need for the execution of public works but it could not properly consent, under Article 8 of the treaty, to an increase in the public debt unless it were demonstrated that the ordinary revenues of the Republic were sufficient to meet the service of this debt, after the payment of the ordinary expenses of the Government. Furthermore, it is particularly anxious to do nothing which would interfere with the early removal or reduction of the export duties.

It would not be practicable to authorize an increase in the series "B" issue and permit the Claims Commission to make awards on that basis with the understanding that the additional bonds would not be issued if the internal revenue law were not passed. In this contingency it would apparently be some of the European claimants who would remain unpaid, thus creating possible diplomatic complications.

In this connection the Department desires that you should discuss with the Claims Commission the advisability of paying so large a proportion of the awards in bonds. The Department feels that it would be difficult to persuade foreign claimants to accept 60 or 70 per cent of the awards in the series "B" bonds, which probably will always have a restricted market because they are payable solely in Haiti. It is believed that Haiti might avoid possible difficulties

with foreign claimants if at least 50 per cent of the awards was paid in cash. You will remember that the British Government has stated that it is not prepared necessarily to accept awards if the amount paid in bonds was sufficiently large to reduce materially the net value of the awards.[26]

HUGHES

438.00/247 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *May 15, 1923—1 p.m.*
[Received May 16—2:20 a.m.]

69. Department's 47, April 14, 4 p.m. Replying to my note of April 17th relative to jurisdiction of Claims Commission, Haitian Congress [*Government*] under date of May 12th replies as follows:

"The Haitian Government does not believe that it is possible to stop the work of the Claims Commission at the date indicated. If it is true that that diplomatic instrument is the means of putting into effect article 12 of the treaty of September 16th, [1915,] it is no less true that it has been necessary to come to an understanding with states who are not contractual parties, in connection with the examination by the said commission of the claims of their respective nationals. In this connection, it is only very recently that the reply of the French Government to the project of an agreement sent to it on March 31st has been received. The French project stipulates in its article 1 that

'all claims based on facts anterior to the date of the present agreement and presented in the name of nationals or protégés of France shall be submitted by the French Legation for consideration by the Claims Commission instituted by article 2 of the protocol signed October 3, 1919, between the Governments of Haiti and of the United States, it being well understood that during the [period?] in which the claims of French citizens and protégés are being examined, the third member of that commission shall be appointed, upon presentation of the French Government, and commissioned as the others, by the President of Haiti.'

It does not appear to be possible to limit to the date of May 3, 1916, the jurisdiction of the commission which the non-contracting states have accepted following the negotiations at Port au Prince as well as Washington.

Furthermore, it is proper to remember that the protocol, in general terms, gives full powers to the commission to pass upon all pecuniary claims against Haiti except four categories of claims specified and which are not to be examined by it.

In view of the foregoing considerations, the Haitian Government believes that the work of the commission should normally stop at the date of June 26th, 1922, the date of the law sanctioning the protocol of October 3, 1919."

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[26] Note no. 923, of Dec. 8, 1922, from the British Ambassador, *Foreign Relations*, 1922, vol. II, p. 553.

If the date of ratification of protocol by the Haitian Government (June 26th, 1921 [*1922*]) is taken, it is my opinion that some claims would be presented involving decisions of Department's Financial Adviser and other Treaty Officials and perhaps of the Department of State. Furthermore, such an extension of time could only be arrived at by a separate agreement between the two Governments.

If date of ratification of treaty is taken all foreign claims after May 1916 can be made through diplomatic channels.

In view of above it is my opinion that jurisdiction should be limited to date of ratification of treaty.

RUSSELL

438.00/247 : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *May 28, 1923—5 p.m.*

62. For General Russell.

Your 69, May 15, 1 p.m. Protocol establishing Claims Commission was made as stated therein for purpose among others of "giving effect to Article XII" of Treaty of 1915 which article sets forth agreement of Haiti to settlement by arbitration of all pending pecuniary claims. It is stated in Article 1 of Protocol to be understanding of signatory powers that protocol does not in fact or by implication extend provisions of treaty.

It seems obvious that definition of jurisdiction of Commission under Article 3 of Protocol to include examination of all pecuniary claims against Haiti must be read in connection with Article 1 of Protocol and that Protocol must be regarded as declaratory of and not independent of treaty. It follows then that the term "all pecuniary claims" in Article 3 of Protocol must relate back to provision in Article XII of Treaty for settlement of all pending pecuniary claims and that therefore jurisdiction of Commission is limited to claims pending when treaty came into effect, which is stated by Article XVI thereof to be day of exchange of ratifications. Contrary interpretation extending jurisdiction of Commission to embrace claims arising subsequent to May 3, 1916 would violate Article 1 of Protocol by enlarging provisions of Article XII of Treaty.

Inform Haitian Government of foregoing and state that extension of time to give Commission jurisdiction over claims arising after May 3, 1916 could only be arrived at by separate agreement between two governments, conclusion of which might well delay work of Commission and therefore would not be approved by this Government.

Express the hope that the Haitian Government will be able to concur in above view.

HUGHES

438.00/263 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *June 12, 1923—noon.*
[Received 6:55 p.m.]

77. Referring to the jurisdiction of Claims Commission French Minister here in notes to the Haitian Government and myself has pointed out that three claims of French citizens occurred after May 1916 and suggests that these might properly be referred to the Arbitral Tribunal to be appointed to consider French claims prior to 1913 and requested my opinion. I can see no objection to such an arrangement. President Borno informed me that if other governments desired the same treatment for claims of their nationals arising after May 3, 1916, the Haitian Government would approve.

RUSSELL

438.00/264 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *June 15, 1923—4 p.m.*
[Received 7:24 p.m.]

82. Department's 62, May 28, 5 p.m. Haitian Government agrees to limiting jurisdiction of Claims Commission to claims arising before May 3d, 1916.

RUSSELL

438.00/263

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 116 WASHINGTON, *July 9, 1923.*

SIR: Referring to your cable No. 77, June 12, noon, in which you inform the Department of the French Minister's suggestion that three French claims arising since May, 1916, be referred to the arbitral tribunal to be appointed to consider French claims prior to 1913, and of President Borno's statement that the same treatment will be accorded to the claims of the nationals of other governments if they so desire, the Department advises you that it perceives no objection to the procedure suggested.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

438.00/289

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 215 PORT AU PRINCE, *August 11, 1923.*
[Received August 18.]

SIR: I have the honor to report that an exchange of notes in regard to French claims has finally been agreed upon between the French and Haitian Governments, and it is my understanding will probably be signed today.

At the last moment, the French Government claimed an extension of six months from August 31, 1923, for the presentation of claims. This was finally reduced to four months, and in view of the fact that there were Spanish, Danish and other like claims to be submitted, the Commission extended the date for the presentation of all claims to the 31st of December, 1923.

A copy of the letter of the Claims Commission to the Secretary of State for Foreign Affairs, dated August 10, 1923, is herewith enclosed.[27] The particular attention of the Department is invited to that part wherein the Commission states its intention not to formally announce this decision until the latter part of the present month.

I have [etc.] JOHN H. RUSSELL

REJECTION OF THE DEMAND OF FRENCH BONDHOLDERS FOR THE REDEMPTION IN GOLD OF THE HAITIAN LOAN OF 1910

838.51/1373a : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *December 16, 1922—5 p.m.*

126. For General Russell.

National City Bank advises Department that members of French Parliament have asked Minister of Foreign Affairs what measures he expects to take to obtain payment in gold of coupons of Haitian bonds of 1910. When this was known offering of these bonds on French bourse was completely stopped. There appears, therefore, to be serious possibility that French holders of 1910 bonds may demand payment in gold. National City Bank's lawyer advises that French courts in such case might permit attachment of funds on deposit in Paris. To avoid this possibility the National City Bank

[27] Not printed.

requests that instructions to them in Hord's letter of November 22nd[31] be changed so that francs held in Paris may be held in general account of National City Bank and not in any special account or for the account of the Haitian Government, and that instructions should state that such deposits are to be held by bank subject to further orders of Financial Adviser in reference thereto. It also suggests that any funds now deposited to credit of General Receiver in Paris might be transferred temporarily in francs to New York, to obviate possibility of attachment by bondholders.

National City Bank points out that provisions of 1896 and 1910 contracts do not require publication by fiscal agent of notice of redemption. In view of possible complications it would seem better that Haitian Government should instruct Haitian Minister in Paris to publish required notices, stating definitely that redemption will be at rate of 1,000 francs for one thousand franc bond, 500 francs for five hundred franc bond, etc.

National City Bank suggests that instead of depositing francs with fiscal agents of French loans in advance of day of redemption, Haitian Government arrange, if possible, with French fiscal agents to accept National City Bank's guarantee of payment for all redeemed bonds and their commissions, in French francs, and not in gold, when French bank draws on National City Bank, through Paris branch, and delivers redeemed bonds to Paris branch. The French loan contracts apparently do not provide for the deposit of francs with the fiscal agents at time of publishing notice of redemption. National City Bank also suggests that Mr. Hord instruct bank that it need not comply with second paragraph of Hord's letter of November 22nd regarding notification to fiscal agents of purchases and deposits of francs.

1896 loan contract apparently does not require any specific period for publication of notice prior to redemption. Unless there is something in Haitian or French law to prevent, it would, therefore, appear possible to redeem 1896 bonds on December 31st, the next interest date.

National City Bank suggests that it might be possible to allow Haitian Government interest rate higher than one and one-half per cent now allowed, if bank could expect that funds would remain on deposit with it for a definite period. Since 1910 loan contract requires three months' notice it would seem that the greater portion of deposits would remain with bank for that period, especially as

[31] Not printed.

purchases of bonds in open market are said to have ceased, as result of cessation of trading in 1910 bonds on bourse.

In view of very serious embarrassment which would result if any action of French bondholders should delay refunding plans, Department believes that suggestions of National City Bank should receive careful consideration and that instructions should be sent to bank at once dealing with the points indicated. Please inform Department of any steps taken.

HUGHES

838.51/1479a : Telegram

The Acting Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *December 29, 1922—2 p.m.*

127. For General Russell. National City Bank informs Department that Haitian Minister in Paris is cabling Government requesting authorization to deposit approximately 27,000,000 francs with the fiscal agent of the 1896 loan for redemption of that loan. National City Bank suggests that such deposit should be made in form of special trust fund for benefit of the 1896 bondholders and for them alone, to prevent possible attachment by 1910 bondholders. Department suggests that Haitian Minister be instructed to confer with Paris counsel for National City Bank regarding form in which deposit should be made.

National City Bank also states that Haitian Minister in Paris consulted fiscal agent of 1910 loan regarding publication of notice and that fiscal agent objected to publication, referring to their letter of November 22 to Haitian Government demanding payment in gold.[32] You should forward copy of this letter to the Department immediately and keep it fully advised regarding all developments in this matter. National City Bank suggests that Haitian Minister in Paris should be instructed to publish notice regarding redemption of 1910 bonds without regard to fiscal agent's protest. Department commends this suggestion to your consideration, since there appears to be nothing to prevent in 1910 loan contract, and since such action appears necessary to assert right of Haitian Government to pay bonds in francs.

PHILLIPS

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[32] Not found in Department files.

838.51/1480 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *December 30, 1922—3 p.m.*
[Received December 31—noon.]

168. Department's 127, December 29, 2 p.m., just received. Urgent cables sent yesterday to National City Bank, New York, its Paris branch, to Société Générale de Crédit Industriel et Commercial, Haitian Legation, Paris, containing instructions for government publication redemption 1910 bonds and transfer of funds for immediate redemption 1896 bonds.

Cable to Haitian Legation directed Haitian representative to immediately get in touch with National City Bank director at Paris and to see that the notice for the redemption of the 1910 bonds was immediately published specifying that each bond 500 francs would be redeemed for 500 francs plus interest due to date of redemption. Further stated that it was indispensable that publication must be made immediately for according to the contract the Government must give three months' notice for the redemption of these bonds and that the redemption must take place not later than April 1st, 1923.

Also that instructions had been given to the National City Bank of Haiti acting in the name of the fiscal agent at New York to cable to the branch of the National City Bank at Paris to deposit 27,000,000 francs in the name of the 1896 bondholders. Further directed Legation to confirm these instructions to the National City Bank at Paris.

Other cables here mentioned confirmed above and directed National City Bank, Paris, to deposit 27,000,000 francs with Société Générale de Crédit Industriel et Commercial. Deposit to be made not as agent for Haitian Government but on behalf of bondholders 1896 loan. Letter of November 22nd not yet received but cable merely stated that demand was made for payment in gold francs.

RUSSELL

838.51/1489 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *January 18, 1923—2 p.m.*
[Received January 19—11:25 a.m.]

8. Department's 10, January 16, 11 a.m.[33] Instructions have been sent to Haitian Legation, Paris, to publish redemption notice of 1910 bonds at once.

RUSSELL

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[33] Not printed.

838.51/1532

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, *May 12, 1923.*

EXCELLENCY: I have the honor to acknowledge the receipt of your Excellency's note of April 10, 1923,[34] in which you inform me that a certain number of the holders of the bonds of the Haitian 5% Foreign Gold Loan of 1910 have demanded that the interest and amortization on these bonds be paid not in French francs of current circulation but either in gold coin or in paper francs in an amount based on the current rate of exchange of the dollar. You state that the Bank of the Parisian Union, which is the fiscal agent of the loan, has brought the demands of these bondholders to the attention of the French Government, and that the French Government, considering that these demands were justified, has made representations to the Haitian Government indicating its interest in an equitable solution of the matter. Since the Haitian Government declined to accede to the request for the payment of the bonds in the manner above mentioned, you request that the Government of the United States examine the matter and if it concurs with the conclusion reached by the French Government, that it give instructions to its representative at Port au Prince to make representations to the Haitian Government similar to those already made by the French representative in Haiti.

The question whether the Haitian Government is required by the conditions of the loan of 1910 to pay the interest and amortization in gold coin has already been carefully considered by the Government of the United States, which is obligated under the Treaty of 1915 to aid the Haitian Government by its good offices in the establishment of the finances of Haiti on a firm and solid basis. After examining the provisions of the loan contract and of the bonds themselves, this Government reached the conclusion that the terms of the loan did not obligate the Haitian Government to the payment of interest and amortization in gold coin, and communicated this conclusion to the Government of Haiti. In studying the matter this Government has not failed to consider the arguments presented in behalf of payment in gold by the Bank of the Parisian Union, which were communicated to the Haitian Government in November last by the bank referred to and which have again been brought to my attention by your Excellency's note.

The Bank of the Parisian Union seeks especially to prove that the word "gold" was used in the caption of the loan to indicate that the interest and amortization of the bonds would be paid in gold

[34] Not printed.

francs. The bank does not, however, refer to any provision of the contract itself which bears out this contention. It seems clear, on the other hand, that this expression was used because the loan was secured, as the Bank of the Parisian Union itself points out, by certain revenues which were to be collected in gold, as distinguished from Haitian paper. It emphasized the fact that the bondholders would not be dependent for their security on revenues collected in the then fluctuating Haitian currency,—a feature of the loan to which the prospective investor at that time would probably have attributed more importance than to the promise to repay in gold coin as distinct from ordinary francs. If it had been the intention of the contracting parties to provide for the payment of interest and amortization in gold coin it seems improbable that bankers who were assuming a moral responsibility for the validity and security of the bonds which they were selling to the French public should have permitted so important a provision to be expressed solely in the caption of the loan and in language which, to say the least, lends itself to another interpretation. It surely would not have been redundant to include in the contract itself provisions relating to so important a matter as the currency in which payment was to be made.

I do not perceive the force of the argument that the contracting parties must have intended that the loan was to be repaid in gold because the proceeds of the loan were to be used for the establishment of a gold currency. There would appear to be no necessary connection between the method of repayment to bondholders and the purposes for which the funds obtained from the loan were to be employed.

In reply to the argument that the word "gold" had not been used in other loan contracts in Haiti, and that its use in the loan of 1910 was, therefore, an innovation which must have some rational explanation, it may be said that the use of the word "gold" in the caption of the loan, as I have already pointed out, is satisfactorily explained by the nature of the security upon which the loan was issued. In the absence of any other indication of the intention of the contracting parties it does not seem necessary to assume that the use of a new word in the caption of the loan signified an important difference between the terms of this and previous loan contracts when no such difference appears from the text of the contracts themselves.

The Bank of the Parisian Union sets forth as additional evidence that it was the intention of the contracting parties to assure the service of the loan in money which would not fluctuate, that the loan was taken not only by the French bank but also by two American

banks and one German bank. It may be pointed out, nevertheless, that the bonds were expressly payable in francs only and not, as in the case, for instance, of the bonds of the National Railroad of Haiti, either in francs or in dollars at the option of the holder. Apparently holders of the 1910 bonds in the United States, or in Germany, would be compelled to receive their interest and amortization in francs. Even in 1910 this would at times have involved for the bondholders either a gain or a loss by exchange.

In making the argument that certain revenues payable in gold were set aside for the security of the loan in order to maintain a proper relation between the amount of the security and the amount of the service of the loan, the Bank of the Parisian Union, as I have indicated above, appears to have set forth the real explanation of the use of the word "gold" in connection with this loan. It is true that the revenues pledged were made collectible in American gold in order to make certain that they would provide an amount in francs sufficient for the service of the loan, but there is nothing in the contract which provides that the bondholders should receive from these revenues more than the amount in francs specified in the bonds and coupons. The loan contract, after providing in Article XVIII that the revenues in question should be collected in American gold, provides expressly in Article XXI that these collections, to such extent as might be necessary to make up the required number of francs to meet the service of the loan, should be remitted "in francs" to the fiscal agent in Paris.

The presentation by the Bank of the Parisian Union of arguments regarding the intention of the parties to the loan contract appears futile when the contract itself expresses no intention to make payments in gold francs. The contract provides simply for payments in francs and francs have now been tendered to the bondholders, in accordance with its terms. In stating that the gold franc and the paper franc were identical in value at the time when the loan was made and "that no one could foresee the present fluctuations in exchange," the Bank of the Parisian Union has undoubtedly set forth the exact reason why no provision was made for the payment of the loan in gold and why the banks negotiating the loan did not request from the Haitian Government any guarantee against changes in the value of the currency in which repayment was to be made. In the absence of such a guarantee there would appear to be no justification for demanding that the Haitian Government should make up to the bondholders the losses which they may have suffered by reason of the decline in the value of the franc. The holders of the bonds of this loan are in exactly the same position in this respect as the holders of other obligations payable in currencies the value of which has declined in relation to gold.

With regard to the intentions of the contracting parties, however, I desire to call your attention to the fact that the great majority, if not all of the holders of the bonds of 1910 have for more than three years been accepting interest payments in francs of current circulation. These payments have been made through the Bank of the Parisian Union, which is at the present time acting as the agent of the Haitian Government in redeeming the bonds at their nominal value in francs. The acceptance of these payments appears to indicate that no very large number of the bondholders had purchased the bonds in the belief that they were payable in gold. I may remind you in this connection of a memorandum prepared by the Bank of the Parisian Union and transmitted to this Department by the French Embassy in Washington on November 4, 1918,[37] in which the bank urged the resumption of interest payments upon the 1910 bonds, calling attention to the fact that the product of the customs revenues pledged for the service of the 5% Gold Loan of 1910 from September, 1915 to March, 1918 had amounted to $1,894,251, and stating that "at the present rate of exchange this sum would represent an amount in francs sufficient to pay all of the coupons in arrears."

In view of the considerations above set forth this Government is of the opinion that the Government of Haiti has fully discharged its obligation to the holders of the bonds of the loan of 1910 by tendering payment in francs of current circulation. It considers that there is no provision either in the loan contract or in the bonds themselves which would impose upon the Haitian Government any obligation to redeem these bonds either in gold coin or in francs at a rate based on the present rate of exchange of the dollar. I do not feel able, therefore, to accede to your Excellency's request that instructions be given to the American representative at Port au Prince to make representations to the Haitian Government in this matter.

Accept [etc.] CHARLES E. HUGHES

REORGANIZATION OF THE NATIONAL RAILROAD OF HAITI

838.77/190

The Secretary of State to the French Chargé (Béarn)

WASHINGTON, *October 5, 1921.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant [*ultimo*], referring to a note from the Ambassador, of February 26, 1921,[38] in which he informed my predecessor[39]

[37] Not printed.
[38] Neither printed.
[39] Mr. Bainbridge Colby.

of the desire of the National Association of French Bondholders to learn the nature and the importance of the modifications which the Financial Adviser of the Haitian Government proposes to make to the contract of concession of the National Railway Company of Haiti, as well as the means contemplated to meet the payment of the coupons in arrears as [*and?*] the current interest. Referring further to the earlier communication, you inform me that your Government is receiving frequent inquiries from the bondholders of the railway referred to and that you would appreciate it if I would ask the Financial Adviser of the Haitian Government about the status of the plan of reorganization of the railway and let you know if possible the approximate date when binding offers of settlement may be laid before the bondholders.

With reference to the matter of the payment of the coupons in arrears, permit me to invite your attention to the favorable status in which it is placed by means of the Protocol between the United States and Haiti of October 3, 1919, to which the Ambassador referred, particular attention being called to Article III, paragraph 3, and Article VII. With regard to the current interest, the Financial Adviser states that it is his intention to verify and admit so much of it as may from time to time be an obligation of the Haitian Government, as a part of the public debt of Haiti, as soon as the income of Haiti warrants.

With respect to the modification of the concession of the railway, which, as you doubtless are aware, is in the hands of a Receiver, by appointment of a court on the petition of certain creditors, I am informed by the Financial Adviser of Haiti that no formal discussions with the Haitian Government have yet taken place with regard to suggesting a modification for submission to the bondholders and to the Receiver.

The Ambassador in his note referred also to the tax of the French Government, upon bonds, which became due on July 5, 1920. The Financial Adviser of Haiti is not convinced that the payment of this tax is an obligation of the Haitian Government.

Accept [etc.]

For the Secretary of State:
HENRY P. FLETCHER

838.77/207a

The Secretary of State to the Receiver for the National Railroad of Haiti (Roger L. Farnham)

WASHINGTON, *February 7, 1923.*

SIR: With reference to recent conferences between yourself and officials of the Department of State, I desire to inform you that the

revised tentative plan for the readjustment of the relations between the Haitian Government and the National Railroad Company of Haiti which was drawn up during these conferences appears acceptable from the point of view of the Department of State. A copy of this plan is transmitted herewith for your information.[40]

I understand that you, as Receiver of the Railroad Company, will present this plan to the holders of the Railroad Company's bonds for their approval, after you have been informed that the plan in its tentative form is acceptable in principle to the President of Haiti. The American High Commissioner at Port au Prince will discuss the plan with the President of Haiti upon his return to his post.

I am [etc.]

For the Secretary of State:
LELAND HARRISON
Assistant Secretary

838.77/220 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *March 9, 1923—4 p.m.*
[Received March 10—10:35 a.m.]

30. President Borno has this morning informed me that he approves of plan of reorganization [of] National Railroad. . . .

RUSSELL

838.77/251a : Telegram

The Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *August 1, 1923—5 p.m.*

86. For General Russell.

Mr. Farnham informs the Department that the Association Nationale acting for the French bondholders have indicated that they are willing to accept the proposed plan for reorganization of National Railroad on condition that they receive $35.75 cash and $73.39 [*$72.39*] in new Government bonds for each $96.53 (500 francs) of railroad bonds with all coupons attached. He is convinced, after prolonged negotiation, that these are the best terms which can be secured. In order to reach final agreement with French bondholders he must be authorized to make a definite offer on these terms.

To make possible a final agreement and to carry out the provisions of the plan drawn up last February and informally approved by

[40] Not printed.

President Borno, it appears necessary that the Council of State should pass a law containing the following provisions:

(1) Authorizing the issue of $4,400,000 in C bonds, of which $2,660,000 are to be issued at once to be exchanged at the rate of $72.39 in C bonds for each 500 franc bond. The remainder to be issued for further construction as and when required as provided in the plan of reorganization. The issue of C bonds to be contingent upon the acceptance by the bondholders of the plan of reorganization.

(2) Sanctioning the plan of reorganization, changing Articles I and III as follows:

> ARTICLE I: The present bondholders will contribute $600,000 of the money held by the Receiver for the payment of the interest. This sum shall be entirely devoted to new construction.
>
> ARTICLE III: The present bondholders shall exchange their railroad bonds for bonds of the Republic of Haiti to be issued as a part of the loan already authorized on the basis of $72.39 of Government bonds for $96.53 of railroad bonds. The railroad bonds received in exchange shall be either retired or cancelled as requested by the Receiver.

(3) Authorizing the Government to enter into an agreement with the Railroad Company, embodying the plan of reorganization and providing for the exchange of bonds and the use of the funds contributed by the bondholders for new construction. The agreement would also provide for the subsequent negotiation of a new concession embodying the provisions of the plan of reorganization. The new contract will terminate all obligations of the Government with respect to its guarantee of the bonds of the Railroad and provide that the Railroad should not issue additional bonds in connection with new construction.

It is very important that the law sanctioning the plan should be enacted immediately and the agreement with the Railroad Company signed as soon as possible thereafter in order that Mr. Farnham may again proceed to Paris to make final arrangements with the bondholders. He desires to have a conference with the bondholders in Paris about August 25th. Judge Mayer [41] also has arranged to be in Paris at that time and his presence would materially facilitate the negotiations. It is suggested, therefore, that authorization be given as soon as possible to the Haitian Minister in Washington to sign the agreement with the Railroad Company.

It is contemplated that the payment of cash to the bondholders and the exchange of bonds should be handled by some bank in Paris acting as agent of the Haitian Government and responsible

[41] Julius M. Mayer, Judge of the United States Circuit Court of Appeals, Southern District of New York. The receivership of the National Railroad of Haiti was under the jurisdiction of this court.

directly to that Government. The funds available for new construction will, in accordance with the plan, be placed in trust and withdrawn only with approval of the Financial Adviser on certificates of the Engineer-in-Chief as the construction progresses.

The funds now available for sinking fund on the railroad bonds will be used for the payment of the debts and expenses of the Receivership and any balance will be added to funds available for new construction.

You will impress upon the Haitian Government the necessity for prompt action in order to take advantage of the willingness of the bondholders to reach an agreement. The Department feels that an agreement along the lines proposed will be highly advantageous to the Haitian Government.

HUGHES

838.77/254 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *August 21, 1923—1 p.m.*
[Received August 24—1:20 p.m.]

117. President Borno and Minister for Foreign Affairs have in official communications both informed me that in view of the limited time Haitian Government is unable to have National Railroad plan of reorganization approved by the legislative body but the following action has been taken: Minister of Foreign Affairs has by note informed French Minister here, Haitian Legation at Paris and me as follows (translation):

"The Government of the Republic of Haiti, approving in principle the plan of reorganization authorizes by these presents Mr. Roger L. Farnham, receiver of the National Railroad of Haiti, to negotiate and conclude with the bondholders of the said company an agreement stipulating that by means of the funds already turned over by the Haitian State to the receiver of the company for guarantee of interest and sinking fund, less a minimum amount of $600,000, which might be retained for the continuation of the construction work of the railway concession, there will be paid to the bondholders in question sum of $35.75 per bond with all coupons attached, and that the bonds with the coupons attached bearing the guarantee of the Haitian State will be exchanged for 6-percent bonds of the Republic of Haiti of series C in the proportion of $72.39 for each one of the bonds of $96.53 of the National Railway of Haiti bearing the guarantee of the Haitian State for the payment of the interest and amortization."

RUSSELL

838.77/256 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Dunn)

WASHINGTON, *September 5, 1923—5 p.m.*

109. Your No. 121, August 24, 1 p.m.[42]

Cable from American Embassy, Paris,[42] states that Farnham considers authorization sufficient for negotiations with French bondholders, but that it will be necessary for Government of Haiti definitely to authorize issue of the bonds required in this transaction.

Department assumes that law authorizing C bonds will be passed subsequently.

PHILLIPS

838.77/284 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, *December 28, 1923—2 p.m.*

[Received December 29—9 : 50 a.m.]

181. Plan for [reorganization] National Railroad and law authorizing issuance of series C bonds was passed yesterday by Council of State.

Although some objectionable modifications have been injected into plan, I do not believe any of them to be serious. Have discussed them with the President who has assured me that construction work will be carried out as he and I desire. Believe passage of plan marks great achievement toward rehabilitation of Haitian finances and development of country.

Complete details by mail should arrive Washington January 10th.[43]

RUSSELL

BOUNDARY DISPUTE WITH THE DOMINICAN REPUBLIC

(See volume I, pages 356 ff.)

[42] Not printed.
[43] Despatch no. 288, not printed.

HONDURAS

EFFORTS BY THE UNITED STATES TO ALLAY FACTIONAL DISSENSIONS AMONG CANDIDATES FOR THE PRESIDENCY IN HONDURAS

815.00/2561

The Minister in Honduras (Morales) to the Secretary of State

No. 328 TEGUCIGALPA, *April 7, 1923.*

[Received April 21.]

SIR: I have the honor to report as follows on the political situation in the Republic of Honduras for the period ending April 7, 1923.

As reported in the Legation's despatch No. 318 dated March 31, 1923,[1] the conference of the Presidential candidates is scheduled for Sunday, April 8th, but it is rumored that it will not take place owing to the fact that Dr. Bonilla is not pleased with the representative sent by Dr. Arias. He would prefer to have the latter attend personally.

Consistent rumors are current to the effect that Señor Miguel Paz Barahona, candidate for vice-President with General Carias, has left the north coast to come to Tegucigalpa for the purpose of persuading General Carias to withdraw in favor of either Dr. Jacinto Mesa, prominent attorney, resident of San Pedro Sula or Dr. Mariano Vasquez, former Minister for Foreign Affairs in the cabinet of President Bertrand.

I am informed that Dr. Bonilla is perfectly willing to withdraw provided the other candidates will follow his initiative. Dr. Arias is also agreeable to the plan. General Carias is the only one holding out.

The President is hopeful that the withdrawal of all candidates can be arranged and should this be accomplished there would be only one candidate left which would naturally assure peace.

By Congressional decree of April 4th, the elections for President, vice-President, members of the Supreme Court and deputies to the National Congress will be held on October 28, 1923 and the two days following that date.

I have [etc.] FRANKLIN E. MORALES

[1] Not printed.

815.00/2560 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *April 21, 1923—3 p.m.*
[Received 10:45 p.m.]

34. General Eulogio Flores, brother-in-law of the President of Guatemala, arrived at Tegucigalpa on the 20th instant on a secret mission from the Guatemalan Government. He has assured President Gutierrez that Orellana will not support the candidacy of Doctor Arias; also that he is desirous of strengthening the political party [2] in the two countries. He also informed the President that Orellana is willing to assist the Honduranean Government with their candidate, provided he is a Liberal and friendly to Guatemala. The President's opinion was also requested regarding the National Assembly's attitude concerning the conventions recently signed at Washington.[3]

MORALES

815.00/2561 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *April 28, 1923—1 p.m.*

15. Your despatch No. 328 of April 7, and your telegram of April 20, 2 p.m.[4]

The Department desires to avoid creating the impression that the United States is taking part in negotiations having as their object the unification of the Liberal party or the selection of one candidate to oppose Carias. It suggests, therefore, that you should exercise extreme caution in regard to the approaching conference of candidates.

The Department feels, however, that it might be helpful should all of the presidential candidates reach an agreement which would diminish the danger of revolution in connection with the approaching election. It would be glad to have your opinion on the practicability of such an agreement. If your personal relations with Carias make it possible, and if you perceive no serious objection to such a step, you are authorized to inform Carias informally and orally that the Government of the United States is somewhat concerned over the apparent probability of revolutionary disturbances

[2] The Liberal Party.
[3] *Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923* (Washington, Government Printing Office, 1923), pp. 283 ff.
[4] Latter not printed.

in Honduras, and that it would be gratified if it were possible for the various political factions to reach an agreement which would assure the maintenance of peace. If there appears to be any reasonable prospect of success you may use your good offices, very discreetly, and without making any commitment of any nature, to assist in bringing about an agreement between all of the candidates for the presidency. You should make it perfectly clear to all concerned that your interest is simply in bringing about an agreement satisfactory to all parties and calculated to assist in the maintenance of peace.

Department has telegraphed text of your April 21, 3 p.m., to the American Legation at Guatemala, with following instruction:

"When a suitable occasion presents itself it is desired that you should speak of this special mission to President Orellana. You may say that your Government is somewhat concerned at the apparent possibility of disturbances in Honduras, and that it hopes that a way may be found to avoid such disturbances either by agreement between the various factions upon one compromise candidate, or by holding a free election. This Government hopes that the Government of Guatemala shares its views in this respect and that Guatemala's influence will not be used in any way to support either political party in Honduras, or to make difficult a solution by either of the methods mentioned above. You may intimate that the Department feels that it would be contrary to the spirit both of the 1907 treaties [5] and of the treaties signed at the recent Conference on Central American Affairs for any Central American Government to assist one political party or to attempt in any other way to influence the internal affairs of another Central American country."

HUGHES

815.00/2565 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *April 30, 1923—9 a.m.*

[Received 11:50 p.m.]

39. Referring to the Department's 15 of April 28, 1 p.m. The conference of the Presidential candidates was held on the 28th instant. Doctors Bonilla, Colindres and Bueno were present the latter representing Arias. Absolutely nothing accomplished. Bonilla at the last moment refused to withdraw. Lagos family desired to name José Angel Zuniga Huete as the compromise candidate supported by this Government and Guatemala. Arias and Colindres willing to withdraw but former against Lagos' candidate. It is very evident

[5] *Foreign Relations*, 1907, pt. 2, pp. 692 ff.

that the Government intends to have a candidate in which case a revolution is imminent.

I shall follow instructions concerning proposed agreement outlined in the Department's telegram and endeavor to have candidates arrive at solution for maintaining peace. I have combined words of Arias and Colindres.

MORALES

815.00/2566 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *May 1, 1923—2 p.m.*
[Received 11 p.m.]

40. Referring to the Department's telegram of April 28, 1 p.m., number 15.

I have interviewed all the Presidential candidates and all have signified their willingness to accept my plan for a conference and discuss thoroughly the present political situation of the country and try to reach an agreement whereby peace will be assured later. The conference will be held immediately upon arrival of Doctor Arias at Tegucigalpa, who is expected Thursday or Friday of this week.

The President will also attend conference.

I shall keep the Department advised by telegraph of the outcome.

MORALES

815.00/2577

The Minister in Guatemala (Geissler) to the Secretary of State

No. 273 GUATEMALA, *May 7, 1923.*
[Received May 21.]

SIR: I have the honor to report, that, following the receipt of the Department's cable No. 30, of April 28, 1 p.m.,[6] I mentioned to the President of Guatemala, in the course of an informal conversation, the mission of General Eulogio Flores in Honduras, and President Orellana assured me that the influence of the Government of Guatemala will not be used to impose any candidate for the Presidency or any political party in Honduras and that he is in entire accord with the hope of the Department of State that the problem of the neighboring Republic may be solved by agreement between the factions or by holding a free election.

I have [etc.] ARTHUR H. GEISSLER

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[6] Not printed; see Department's telegram no. 15, Apr. 28, p. 425.

815.00/2571 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

[Paraphrase]

TEGUCIGALPA, *May 8, 1923—9 a.m.*
[Received May 9—10:55 a.m.]

43. Conference candidates for Presidency took place on May 7. President Gutierrez, Arias, Bonilla, Carias, and Colindres present. They were unable to agree upon a compromise candidate and accordingly all decided to run for office if they can secure from the President a guarantee of free elections. This the President agreed to give. . . . Last night I had an interview with all of the candidates and they told me that they would proceed with their campaigns until the Government names its candidate.

Just before the conference took place the President informed me that he was unable to attend as it was against the wishes of the Minister of Foreign Affairs, and was sending Carlos Lagos to represent him. Whereupon I objected and told him that the candidates were expecting him and that the attendance of Lagos would defeat whatever purpose the conference might have. Finally I convinced him that no good results would come from the conference unless he attended. He agreed and came. Lagos was present when I interviewed the candidates last night.

. . . . . .

MORALES

815.00/2574 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *May 13, 1923—10 a.m.*
[Received May 14—4:55 p.m.]

46. The President requested Arias, Bonilla and Colindres to confer with him yesterday afternoon for the purpose of arriving at a solution whereby the Liberal Party would only be represented by one candidate to oppose Carias. The President showed them a letter from the Honduranean Minister at Washington stating that the Secretary of State and Under Secretary were of the opinion that one candidate was sufficient from each party also implying that the Department would not countenance a revolutionary movement.[7] The President and candidates could not agree upon a proper solution but it was decided that the best way would be to have the three candidates decide which one should represent the party.

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[7] See telegram no. 21, May 15, to the Minister in Honduras, p. 430.

The President sent for me last evening and requested that I use my good offices with Arias and Bonilla to have them withdraw in favor of Colindres. He stated that he would guarantee that if Colindres was accepted by the other two that no other candidate would be permitted to enter the campaign, alluding to Zuniga Huete. He further stated that it would be impossible to prevent a revolution if the present situation continued and that it would only be avoided by my intervention with Arias and Bonilla. He said that the latter two had nothing whatever against Colindres and he was certain that they would accept him if I interceded. I informed him that I could not interfere in the manner suggested but that I would gladly submit his proposition to the Department for consideration. He stated that he would also telegraph to Doctor Cordova and instruct him to inform the Department of this possible solution.

For the Department's information I can state that my personal relations with four candidates are of the best and I have maintained that friendship by not permitting myself to be drawn into their politics.

I am of the opinion that the only solution for maintaining peace is to have one candidate from each party with the Government's guarantee for free elections. It may be that the other two candidates would not agree upon Colindres but may be persuaded to accept Jacinto Mesa as the representative of the Liberal Party. Mesa would be acceptable to the President, Arias and Colindres and if pressure were brought to bear upon Bonilla he would also accept.

MORALES

815.00/2571 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *May 15, 1923—5 p.m.*

20. Merely for your information.

On May 12 the Honduranean Minister called on the Under Secretary and left with him a copy of a telegram from President Lopez Gutierrez mentioning the failure of the recent conference of candidates and stating that it is generally considered that without an agreement among the candidates there was imminent danger of civil war in the near future. The President stated that he was determined to avoid this danger, maintaining public order at any cost, and he instructed the Minister to inquire how far the Department would support him in this.

The Minister was told that you had been doing your utmost to bring about an amelioration of conditions referred to, but that if the

political leaders desired to fight and destroy their country it would be impossible to prevent them. It was pointed out that the last portion of the telegram was rather vague, but the Minister said that he presumed that the President would like a statement that the United States would not permit civil war on the north coast. He was told that no assurance of this kind could be given.

HUGHES

815.00/2574 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *May 15, 1923—6 p.m.*

21. Your 46, May 13, 10 a.m.

The Department has not expressed the opinion that one candidate was sufficient from each party, nor has it implied that it would not countenance a revolutionary movement. As stated in its No. 15, April 28, 1 p.m., the Department desires to avoid creating the impression that the United States is taking part in negotiations having as their object the unification of the Liberal party or the selection of one candidate to oppose Carias. The interest of this Government is simply in bringing about an agreement satisfactory to all parties and calculated to assist in the maintenance of peace, and it is willing to use its good offices and to have you very discreetly use yours, without making any commitment of any nature, to assist in bringing about an agreement among all parties and all candidates for the presidency. Should its good offices, however, not result in preserving peace in Central America, the responsibility for the resulting situation will have to be assumed by those responsible therefor. While the Department would deeply regret a revolutionary movement in any of the Central American countries, it is not prepared to say that it will not countenance such disturbances, nor is it prepared to go beyond the use of its good offices described above. You may discreetly inform the President of the above and of the substance of the Under Secretary's conversation with Honduran Minister on May 12 embodied in Department's No. 20 of May 15, 5 p.m.

HUGHES

815.00/2585 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *May 26, 1923—12 a.m.*

[Received May 27—4:45 p.m.]

51. I have again requested the President and four candidates to meet on the [30th?] instant for the purpose of arriving at a definite agreement to maintain peace. All have signified their willingness

to attend the conference. It is probable that something may be accomplished. Bonilla informed me that he has no candidate to propose and will accept any honorable man as a compromise. Arias of the same opinion. Carias is doubtful and was led to believe, through malicious misrepresentations, that the Government of the United States desired his withdrawal. I quickly dispelled this misapprehension.

The President, Bonilla and Arias have requested my presence at the conference. I do not consider this advisable for obvious reasons, unless the Department desires me to attend.

MORALES

815.00/2588 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *May 30, 1923—8 p.m.*
[Received June 1—10 a.m.]

53. Referring to Legation's telegram 51 of May 26, noon. The conference was held this afternoon. The President at the last moment refused to attend, sending the Minister for Foreign Affairs to represent him. Colindres withdrew as a candidate stating that his action was voluntary and in the interest of peace. Carias stated that he could not withdraw as his adherents were opposed to such action on his part. He suggested that Arias and Bonilla come to a decision whereby one of them would oppose him at the polls. I believe that the latter two will eventually agree upon a solution either by a compromise candidate or by one of them representing the Liberal Party.

MORALES

815.00/2599 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, *June 21, 1923—6 p.m.*

15. Your 34, June 19, 11 a.m.[8]

This Government has been much concerned over the recent political developments in Honduras and has expressed the hope that revolutionary disturbances in that country might be avoided either through free and fair elections or by an agreement among all parties and factions on some person acceptable to all. This Government, of course, does not favor any candidate in the Honduran elections. It has no preferences, and will, of course, be glad to cooperate fully

[8] Not printed.

with any candidate that comes into office as the result of the will of the majority of the electorate expressed in free and fair elections. The Department does not desire that you should give out any statement with regard to this matter, but you may use the above in your conversations with Salvadorean officials and political leaders.

HUGHES

815.00/2609 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *June 26, 1923—11 a.m.*
[Received June 27—10:05 a.m.]

56. Doctors Bonilla and Arias conferred on Saturday but no agreement reached. The former desired to be the candidate of the Liberal Party with Arias as Vice President, but this plan was not agreeable to the latter.

The new Minister and the Under Secretary of Finance are Bonilla adherents and four other followers of the latter were appointed to office today. It is rumored that the Minister of Public Instruction will resign this week and that Bonilla's campaign manager will be appointed to succeed him. If this takes place, civil war is imminent.

It is very evident that the Government and Bonilla have arrived at some agreement.

MORALES

815.00/2609 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *June 30, 1923—3 p.m.*

26. Your 56, June 26, 11 a.m.

The Department is also constantly receiving from other sources reports of impending revolution in Honduras, and regrets that efforts to effect an agreement between opposing candidates have as yet been unsuccessful and that the situation is thus daily becoming more fraught with consequences that cannot but prove disastrous to the citizens and interests of that country. This Government being desirous again to endeavor to avert such inevitable consequences, you will communicate to the President and the other political leaders, including Carlos Lagos, and give the widest publicity to the following statement:

"The Government of the United States repeatedly having counselled, but without avail, that an agreement should be reached between all the Honduran presidential candidates that would avert revolution and its resultant disruption, desires once more to em-

phasize the grave situation in which Honduras will be placed if some satisfactory settlement to this end is not reached. The economic condition of the country, already serious, will be rendered even more precarious; notwithstanding the fact that recent negotiations [9] for the financial rehabilitation of the country appeared to warrant optimism, the credit of Honduras, which is already low, cannot but be further depressed should revolutionary disturbances occur; there would appear slight possibility of arranging either for the settlement of the outstanding debt or for loans for economic development of which the country is in great need; commerce would be brought to a standstill; the resources and income of the Government would be diminished or disappear; any government, either present or future, would find it difficult if not impossible to maintain itself in office, and the recent economic, commercial, and industrial development of Honduras would be sacrificed. Furthermore, the efforts of the Honduran Government and its delegates to the recent conference at Washington immediately to bring about a more stable and prosperous condition in Central America, would be seriously impeded.

The Government of the United States is at all times ready to assist, along constructive lines of development. It is now ready to render all possible proper assistance in the present crisis. It is of the firm opinion, however, that improvement in the present economic situation of Honduras, which the citizens of both countries so ardently desire, can only be continued upon the basis of political peace and quiet in the country, and attained by the agreement of all parties to abide by the results of free and fair elections and the most efficient administration of the country's finances.

The Government of the United States, therefore, bespeaks the most earnest attention to these politico-economic considerations which are of paramount importance. It entertains no preference as between parties or candidates, it will exert influence neither for nor against any candidate, but it is ready to afford cooperation, assistance and support to any government elected as the expression of the will of the Honduran electorate through the medium of free and fair elections.

Should this appeal prove unavailing, the Government of the United States will have no alternative than to consider that it will then have fulfilled the obligations coincident with its earnest regard for the maintenance of peace, order, progress and economic well-being in the countries which are its neighbors, and the responsibility for the disorganization, misery and sacrifice of economic stability must be borne by those who for any motives are unwilling to reach an amicable settlement of their political differences.

The attitude of the Government of the United States with respect to the recognition of new Governments in the five Central American Republics whose representatives signed at Washington on February 7, 1923, a General Treaty of Peace and Amity,[10] to which the United States was not a party, but with the provisions of which it is in the

[9] Reference is probably to the proposed agreement between the Government of Honduras and the Corporation of Foreign Bondholders of London for the settlement of the Honduran foreign debt growing out of the loans of 1867, 1869, and 1870 made in London and Paris.

[10] *Conference of Central American Affairs*, p. 287.

most hearty accord, will be consonant with the provisions of Article II thereof which stipulates that the contracting parties:

'will not recognize any other Government which may come into power in any of the five Republics through a *coup d'état* or a revolution against a recognized Government, so long as the freely elected representatives of the people thereof have not constitutionally reorganized the country. And even in such a case they obligate themselves not to acknowledge the recognition if any of the persons elected as President, Vice-President or Chief of State designate should fall under any of the following heads:

1) If he should be the leader or one of the leaders of a *coup d'état* or revolution, or through blood relationship or marriage, be an ascendant or descendant or brother of such leader or leaders.

2) If he should have been a Secretary of State or should have held some high military command during the accomplishment of the *coup d'état*, the revolution, or while the election was being carried on, or if he should have held this office or command within the six months preceding the *coup d'état*, revolution, or the election.'"

Repeat to other Central American Missions for similar publicity.

HUGHES

815.00/2624 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *July 11, 1923—10 a.m.*

[Received 11:40 p.m.]

63. Doctor Arias informed me last evening that Carlos Lagos and Zuniga Huete called upon him yesterday afternoon and requested that he withdraw from the campaign in favor of Zuniga Huete. Lagos stated that all the expenses heretofore incurred by Arias would be returned and [omission?] any position that he desired in the new government, also numerous appointments for his friends. Arias raised the objection to Bonilla's imposition, but Lagos told him that the Government would withdraw its support and the imposition would cease for Bonilla and favor the Lagos candidate. Arias referred to the Department's attitude as manifested by its telegram of June 30, 3 p.m. Referring to article 2 Lagos and Zuniga Huete stated that this could be overcome by having the interested parties sign an agreement covering points they intended to violate which in the next Congress would be offered as a modification when the Treaty of Peace and Amity would be considered. Lagos and Zuniga Huete further stated that the Department's attitude as expressed in the telegram could be looked upon as a bluff.

Bonilla also confirmed the fact that Lagos would foist a candidate of his selection. He is concerned over the possible loss of the Government's support.

In its issue of July 9th, the Government newspaper in an editorial referring to article 2 declared "that compulsion of the government is not an alteration of the constitutional order."

MORALES

815.00/2624 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *July 14, 1923—4 p.m.*

28. Your 63, July 11, 10 a.m., penultimate sentence first paragraph.

For your information. The Department's No. 26, June 30, 3 p.m., sets forth the position of this Government as regards the recognition of new governments in Central America, and any modifications of the Treaty of Peace and Amity of February 7, last, made by the congresses of any of the Central American states in ratifying that Treaty would, of course, have no effect as regards the policy of the United States, which is not even a signatory of the Treaty. As clearly set forth in the Department's telegram above mentioned, the attitude of this Government in recognizing new governments in the five Central American Republics will be consonant with the provisions of Article II of the general Treaty of Peace and Amity, as signed at Washington on February 7, 1923.

HUGHES

815.00/2632

The Secretary of State to the Minister in Honduras (Morales)

No. 560 WASHINGTON, *July 26, 1923.*

SIR: The Department has received and read with interest your despatch No. 423, of July 5, 1923,[11] discussing the reception in Honduras of the Department's declaration of policy as embodied in its telegram of June 30.

Your statement that President Lopez Gutiérrez had expressed his approbation of the Department's views, and that you believe that he will exert himself from now on to bring about a free election, has been noted with especial gratification. It is desired that you should informally make it clear to the President, when an appropriate occasion presents itself, that it is the earnest hope of the Government of the United States that he will be able to maintain the principle of free elections which was so prominent a feature of the program upon which he himself was elected to office, and that he will assure an opportunity for the free expression of the wishes of the voters, not only by giving appropriate instructions to his subordinates, but by satisfying himself that officials holding positions where they may be able to influence the conduct of the elections are men of a type which will create confidence on the part of all parties.

I am [etc.] CHARLES E. HUGHES

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[11] Not printed.

815.00/2642 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *July 29, 1923—2 p.m.*
[Received July 30—6:34 a.m.]

66. General Carias called at the Legation this morning and stated that he would be compelled to start the revolution if the Government persisted in harassing him and his partisans. He stated that he is losing prestige with his party by permitting the Government to continually insult him. His men are clamoring for the word to start the war and he fears it beyond his power to control them much longer. He further stated that Lagos was doing his utmost to provoke his adherents to fire the first shot. Also that Martinez Funes with 500 armed men is on the Nicaraguan frontier ready to invade Honduras on receipt of instructions from him.

A confidential agent of Carias just returned from San Salvador where he interviewed Fausto Davila. It appears from my information that Davila was requested to leave Salvador for the United States and be prepared to accept the candidacy of the National Party for President should the revolution be forced on Carias. Davila left San Salvador on the 24th instant presumably for the United States.

Gregorio Ferrara is at Esperanza with a force of armed men. It is difficult to determine which candidate he is supporting but he is believed to be a free lance and will join the first one who starts the revolution.

The President has requested that representations be made to Guatemala and Nicaragua to reconcentrate the Honduranean *emigrados* now organizing on those frontiers.

The Government has been sending men, arms, and ammunition to the north and south coasts during the last few days.

MORALES

815.00/2643 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *August 3, 1923—1 p.m.*

29. For your information.

Your 66, July 29, 2 p.m.

First paragraph last sentence was telegraphed to American Legation Managua. The following telegram has now been received from Legation, dated August 1:

"President Chamorro states that he will despatch at once a small armed guard to the frontier in search of Funes. He requested me

to point out to the Department the great length of the frontier and the fact that financial restrictions prevent him from maintaining a regular border force. The President further stated that (apparent omission) Funes had so large a force as the government had received no report of his movements for some time."

HUGHES

815.00/2670 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *August 27, 1923—10 a.m.*

[Received 8:05 p.m.]

73. I am convinced that a revolution in Honduras is imminent in the very near future instigated by either the Arias or Carias forces provoked by the strong imposition of Bonilla's candidacy upon the electorate by the Government. To avoid a possible war and its lamentable consequences I respectfully submit the following for the Department's consideration which I believe will avert a revolution: A conference on board a United States vessel at Amapala participated in by the President and the three Presidential candidates in an endeavor to bring about a satisfactory agreement whereby peace and free elections will be assured to the electorate as well as serving to dissipate the marked distrust that the various candidates entertain toward each other.

I have the hearty approval of the President to the above plan and he suggests that, provided the plan is approved by the Department, I accompany them to act as an observer. He stated that my presence would be a guarantee of good faith on the part of all participants.

MORALES

815.00/2670 : Telegram

The Acting Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *August 28, 1923—7 p.m.*

35. Your 73, August 27, 10 a.m.

The Department would be willing to consider a conference such as you suggest if it were convinced that such a conference would be profitable. It does not, however, perceive any advantage in holding a conference unless the Government of Honduras is prepared to take such effective measures as will assure all parties that the Government does not intend to impose a candidate in the forthcoming elections. You will ascertain from President Lopez Gutierrez what measures the Government is prepared to adopt should a conference such as you propose be held.

PHILLIPS

815.00/2674 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *August 30, 1923—9 a.m.*
[Received August 31—9:50 a.m.]

74. Referring to the Department's telegram of August 28, 7 p.m. The President informed me that he was willing to assure the candidates that he would not impose a candidate at the forthcoming elections and would do everything within his power to guarantee free elections. . . .

. . . . . .

MORALES

815.00/2690 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *September 19, 1923—5 p.m.*
[Received September 20—1:25 p.m.]

77. The President has [information?] to the effect that a revolutionary movement is being organized in different parts of the country by Gregorio Ferrara assisted by the followers of [Carias?]. The movement is scheduled to take place on the 23rd instant. Martinez Funes is also implicated and he is supposed to invade Honduras from Nicaraguan territory. The President requests that representations be made to the Nicaraguan Government for the reconcentration of Funes.

MORALES

815.00/2693 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *September 24, 1923—9 a.m.*
[Received 8:10 p.m.]

78. Referring to the Legation's number 77 of September 19, 5 p.m. The revolutionary movement scheduled to take place yesterday at Esperanza developed into a political manifestation. The Government was prepared for any emergency.

Commandants at Yuscaran and Danli have reported that numerous followers of Carias have passed through on their way to Nicaragua.

The President would be very grateful if a warship was sent to Amapala on a trip of courtesy at this time.

MORALES

815.00/2693 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *September 28, 1923—6 p.m.*

40. Your September 24, 9 a.m., last paragraph.

The Department has as yet received no evidence indicating that the sending of a warship as a measure to indicate moral support of the constituted authorities will be necessary if the Honduran Government permits the elections to be conducted with full freedom and fairness. If, on the other hand, any failure to assure freedom in the elections should threaten to result in disorder, the Department would not feel justified in giving any moral support to the officials responsible. You may convey this statement informally to President Lopez Gutierrez.

HUGHES

815.00/2701 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

[Paraphrase]

TEGUCIGALPA, *October 5, 1923—2 p.m.*

[Received October 6—12:45 p.m.]

80. Imposition of Arias by Carlos Lagos and Ministers of Fomento, Gobernacion, and Public Instruction has become more pronounced each day. Cabinet is now controlled by Lagos, and he plans to use coercive measures during the last few days preceding the elections. President does not believe that his brother-in-law [12] is working against his interests. His private secretary has warned him but he refuses to believe what his secretary says. His secretary requested me to convince the President that the Lagos faction in the Cabinet is engaged in intrigue. Situation undoubtedly is critical. Carias faction plan to start a revolution if they notice any signs of imposition on first day of elections when officials are chosen to preside at the polls.

MORALES

815.00/2701 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

[Paraphrase]

WASHINGTON, *October 8, 1923—4 p.m.*

41. With reference to Legation's No. 80, October 5, 2 p.m., you will of course not comply with request of the private secretary.

HUGHES

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[12] Carlos Lagos.

815.00/2706 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *October 8, 1923—7 p.m.*
[Received October 9—1:50 p.m.]

81. Referring to Legation's telegram of October 5, 2 p.m. number 80. I had an interview with the President this morning at which time I pointed out the intrigues of Lagos and others and their plans to frustrate all possibility of free elections. The President sent the following telegram this day:

"Commandants, Governors, and District Commandants: I repeat to you my order to maintain during the present election the strictest neutrality. I recommend to you to respect the freedom of suffrage by maintaining order and giving effective guarantees to all citizens. The government is interested only during the present campaign in the liberty of the people about to be expressed; and I hope that you who have served my government with loyalty and honor may so assist on this occasion here in absolute peace and supported by law that the Honduranean people may elect its chief executive. I desire to return to private life leaving for the future the absolute confidence of the people in their institutions and chief executive so that democracy may be a positive fact. Acknowledge receipt and when interpreting my sentiments in favor of the people I hope your cooperation as circumstances demand will be for the welfare of Honduras. Sincerely, R. Lopez G."

He also issued orders to the head of the telegraph office that he was not to transmit any cipher messages signed by Lagos.

. . . . . .

MORALES

815.00/2704 : Telegram

The Acting Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *October 10, 1923—5 p.m.*

42. The Honduranean Minister called yesterday on the Acting Secretary and presented a memorandum [13] calling attention to the difficult situation which might be created if none of the presidential candidates received a majority of the popular vote, and if Congress, which would then be called upon to decide, should fail to elect a President before the beginning of the new term on February 1. The memorandum concluded with a statement that the President of Honduras would deeply appreciate it if the Government of the United

[13] Not printed.

States would carefully consider this situation, in order that, if the necessity should arise, the President might have the friendly advice of the United States relative to measures that may be necessary for the maintenance of peace.

The Acting Secretary replied that the memorandum would be carefully studied and that he appreciated the courtesy of the President's inquiry. He said, however, that this Government would probably not wish to inject itself into the situation, even if it were impossible to elect a candidate, and that any such assistance should therefore not be counted upon.

You are requested orally to inform President Lopez Gutiérrez that the Minister's memorandum is receiving the most careful and sympathetic study by this Government. While the election of the new President is of course a matter for the people of Honduras to settle under their own laws, the maintenance of peace and the free exercise of the rights of franchise in Honduras are matters in which this Government feels a deep and friendly interest.

You may further say that this Government confidently hopes that the elections in Honduras will take place peacefully and in accordance with the laws, and its confidence in this respect has been greatly strengthened by President Lopez Gutiérrez' telegram to his representatives as quoted by you in your October 8, 7 p.m. The President's action must impress all friends of Honduras as an evidence of his intention that the forthcoming elections should be free and fair.

The Department desires to know whether the telegram in question has been published, or whether the President contemplates publishing it. It believes that the publication would have a most satisfactory effect and it would be glad to make the telegram public in the United States, if the President wishes to publish it in Honduras.

PHILLIPS

815.00/2710 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *October 11, 1923—8 p.m.*
[Received October 13—11:15 a.m.]

83. Referring to the Department's telegram of October 10, 8 [5] p.m., number 42. The instructions contained therein were conveyed to the President. He sincerely appreciates the Department's confidence in him in being able to assure free elections. He is also grateful for the expression made regarding his telegram of October 8th. The President's telegram was published in Honduras on the 9th instant and he would be very pleased to have published in the United

States and the Department has his authority to use it in any way advantageous to the ends he desires to obtain.

At the request of General Carias three commandants were removed from office today and replaced by men who will respect the President's orders.

I firmly believe the President is sincere in desiring free elections and he will exert himself to that end from now on. The Department's telegram of October 10, 8 [5] p.m. was extremely pleasing to him.

MORALES

815.00/2710 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *October 17, 1923—6 p.m.*

45. Your October 11, 8 p.m. Department is gratified to receive information conveyed. Telegram referred to in your October 8, 7 p.m., has been given to the press.

HUGHES

815.00/2723 : Telegram

The Minister in Honduras (Morales) to the Secetary of State

TEGUCIGALPA, *October 26, 1923—5 p.m.*
[Received October 27—5:18 a.m.]

86. On the eve of the elections I desire to report that throughout the entire country peace prevails. The President stated this afternoon that all effective measures had been taken by the governor general to guarantee the freedom of suffrage to the electorate.

Arias informed me today that his partisans had received instructions to maintain peace and he felt assured that the elections would be held in absolute tranquillity. He further stated that his party would not resort to violence. Arias relies on his organization to assure him the election.

Bonilla is perfectly satisfied with present conditions, but he fears the intrigues of Zuniga Huete and Carlos Lagos during the elections.

Carias will not under any circumstances permit his adherents to take up arms during the elections. He stated that, if the Government continues to refrain from coercion, he will be satisfied. He believes that, if the laboring classes are permitted to approach the polls unmolested, and if the votes that they cast are counted, he will receive a majority of the popular vote. Repeated to all missions in Central America.

MORALES

815.00/2725 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *October 27, 1923—10 a.m.*
[Received 7:30 p.m.]

87. The President sent the following telegram to all the military commandants throughout the Republic last evening:

"The elections to choose the supreme executive authorities will begin tomorrow. I again recommend to you to exert yourselves so that the elections will be held in absolute freedom. As complaints have arrived from certain sections that subordinate government officials have failed to fulfill their duty, please repeat your orders so that all will comply with the law. The free elections of my successor spontaneously chosen by the Honduranean people will be clearest constituent of my policy and the greatest justification of the resolution [*revolution ?*] of 1919."

The above will be published in the evening papers of today.

MORALES

815.00/2732 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *October 30, 1923—1 p.m.*
[Received October 31—8:55 a.m.]

90. Referring to the Legation's telegram of October 30, 8 a.m.[14] The polls at Tegucigalpa reopened yesterday morning and no disorders reported throughout the Republic. The final vote as given by the Government, with the exception of a few towns which will not materially affect the count, is as follows: Carias 46,800, Bonilla 33,000, and Arias 18,000. . . .

MORALES

815.00/2735 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *November 7, 1923—9 a.m.*
[Received 7:50 p.m.]

91. The political situation in Honduras is more complicated today than prior to the elections. Bonilla is making overtures to Arias for a fusion of the two factions to defeat Carias in Congress. Arias is also trying to come to some arrangement with Carias. The Gov-

[14] Not printed.

ernment favors a union between Arias and Bonilla for the interest of the Liberal Party with the latter as President. In this event a revolution is inevitable as Carias is determined to fight for his right to the office. In my opinion the only solution to the controversy is a fusion between Carias and Arias or between Carias and Bonilla. My assistance in bringing about an agreement has been solicited by Arias and Bonilla. I feel certain that Carias would be willing to enter into an arrangement with one or the other but only on the basis that he be the President. The Department's advice in this matter is requested.

MORALES

815.00/2735 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *November 9, 1923—3 p.m.*

48. Your November 7, 9 a.m.

The Department does not desire that you should become involved in any way in negotiations or intrigues among the various presidential candidates. In the absence of further instructions, therefore, it desires that you should confine your activities to reporting the situation very fully, if necessary by telegraph, although there is, of course, no objection to your exerting a proper influence in a very impartial manner to dissuading the various factions from seeking a solution of the electoral situation by force instead of by constitutional methods. The Department still desires to render any proper assistance in connection with the present difficulties, if an occasion should arise where its assistance would be appropriate, but this assistance cannot extend to seeking to promote a combination in the Honduran Congress in favor of or against any particular candidate.

HUGHES

815.00/2748 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *November 13, 1923—10 a.m.*

[Received 11:40 p.m.]

93. The Guatemalan Minister acting as the representative of Arias made a proposition to Carias for an arrangement between the two on the basis that Arias be the President. Carias refused to entertain the proposal.

The President requested my opinion yesterday relative to the advisability of holding a conference with the three candidates for the purpose of trying to effect a satisfactory solution of the question agreeable to all. I heartily approved of the plan.

There is no immediate danger of a revolution from either Carias or Arias and I believe that if no arrangement can be effected among the candidates that they will await the decision of Congress before resorting to arms.

Repeated to Guatemala.

MORALES

815.00/2753 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *November 16, 1923—9 a.m.*

[Received 8:35 p.m.]

94. The President invited the three Presidential candidates to confer with him yesterday afternoon. Carias refused to attend. The President, Arias and Bonilla discussed the political situation for three hours but nothing was accomplished.

MORALES

815.00/2763 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

[Paraphrase]

TEGUCIGALPA, *December 1, 1923—10 a.m.*

[Received 8:50 p.m.]

96. According to rumors coming from sources which I consider to be reliable a *coup d'état* led by Carlos Lagos and Zuniga Huete is about to take place. These rumors appear to be confirmed by surface indications. President Gutierrez and his wife according to reports are about to depart from the capital presumably to meet Doctor Gomez, who with his wife, a sister to the President's wife, is returning from Costa Rica. The supposition is that in the absence of the President the Lagos faction will take over the palace and attempt to set up a *de facto* government. . . . If the Department could have a war vessel sent to Amapala its presence would aid in preventing disorders.

MORALES

815.00/2765 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

[Paraphrase]

TEGUCIGALPA, *December 3, 1923—9 a.m.*
[Received 7 p.m.]

97. My telegram of December 1, 10 a.m.

Yesterday I brought to the attention of the President informally the rumors of the proposed *coup d'état*, whereupon he informed me that he had intended to go to Amapala for a short time but in view of the information I had conveyed to him he would give up the trip. He added that he would take every precaution to defend the city and palace against the proposed attack.

MORALES

815.00/2763 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

[Paraphrase]

WASHINGTON, *December 3, 1923—5 p.m.*

49. Legation's December 1, 10 a.m.

Under present conditions the Department does not consider it advisable to have a warship sent to Amapala.

HUGHES

815.00/2778 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *December 15, 1923—6 p.m.*

54. Your December 14, 11 a.m.[15]

Department does not deem it advisable to make another public pronouncement about the situation in Honduras, but it has no objection to your conveying informally to Carias and his principal supporters a statement that this Government wishes all concerned to know that its attitude regarding the recognition of revolutionary governments remains as stated in its telegram of June 30, and that it would find it especially difficult to recognize a government controlled by any faction which resorted to revolution without even waiting for the electoral procedure provided by the constitution to be carried out.

HUGHES

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[15] Not printed.

815.00/2782 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *December 17, 1923—2 p.m.*
[Received 10:11 p.m.]

104. . . .

. . . . . .

I have been reliably informed that the Government intends to declare a state of martial law throughout the country within a few days for the purpose of dominating the situation and maintaining peace up until Congress convenes at which time the decree establishing martial law will be revoked.

A declaration of martial law at this time may precipitate the revolution as the action of the Government will be interpreted by Carias as hostile to him and his party.

The contents of the Department's telegram of December 15, 6 p.m. were conveyed informally to Carias this morning. Repeated to Salvador and Nicaragua.

MORALES

815.00/2784 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *December 18, 1923—9 a.m.*
[Received 2:03 p.m.]

105. Referring to my telegram of December 17, 2 p.m. By Executive decree martial law has been declared throughout the Republic.

Fourteen Carias adherents were placed under arrest at Amapala last evening.

MORALES

815.00/2788 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *December 19, 1923—3 p.m.*
[Received 10:23 p.m.]

107. Over 200 of the Carias leaders have been arrested in different parts of the country since yesterday. One Congressman was killed and another [person?] arrested by Government officers' forces. The latter is a Justice of the Supreme Court.

It would appear that the Government's defense has now turned out to be persecution.

MORALES

815.00/2792 : Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, *December 20, 1923—6 p.m.*
[Received December 21—12:25 a.m.]

108. Numerous attacks have been made upon Government barracks in different places by armed forces. La Owari and Comayagua were attacked today. The Government considers the movement as under way and is expecting a serious attack on the 24th instant. Carias is still in Tegucigalpa. The services of the Arias followers have been accepted by the Government. The President requests that a warship be sent to Amapala for the moral effect it would have upon the situation. He claims his only desire is to maintain the present Government until Congress has the opportunity of deciding the question. He believes that the presence of a warship in Honduran waters will be a guarantee of peace. In view of the Department's telegram of December 3, 5 p.m., I dislike to transmit this request and I am doing it only at the urgent solicitation of the President.

MORALES

815.00/2763 : Telegram

The Secretary of State to the Minister in Honduras (Morales)

WASHINGTON, *December 21, 1923—5 p.m.*

55. Your December 18, 9 a.m., and December 19, 3 p.m.

You will state orally to the President and other officials of the Government of Honduras that the Government of the United States has been painfully surprised by the proclamation of martial law and the wholesale arrest of political opponents of the Government at a time when there has been no serious disturbance of the peace. The Government's action can only be regarded as evidence of an intent to intimidate its opponents in order to prevent Congress from acting freely and calmly in dealing with the electoral problem. The Government of the United States had already learned with regret of the irregularities and plots which characterized the popular elections in Tegucigalpa, Puerto Cortes, Tela, and other places. It had hoped, however, that an effort would nevertheless be made to deal with the situation created by the failure of any candidate to receive a majority in a patriotic spirit and in accordance with the constitution. It is feared that the Government's recent action will encourage the disregard of the law which characterized the action of some of the local authorities in the popular elections and give rise to the belief that it was a part of a policy adopted and still being followed

by the central government itself. It must be clearly understood that the Government of the United States would find it fully as difficult to recognize an administration placed in office by oppressive measures on the part of the existing authorities as to recognize an administration coming into power by any other unconstitutional procedure.

You may show the appropriate authorities a copy of this telegram.

You may also tell leaders of other parties that Department's attitude toward recognition of revolutionary governments would apply also to administration placed in power by abuse of authority on the part of existing government. Do not, however, show such leaders the above telegram.

Your December 20, 6 p.m. A warship is now on its way to Amapala, although its stay at that port will be subject to the exigencies of the situation in Mexico.

HUGHES

815.00/2794a : Telegram

The Secretary of State to the Minister in Costa Rica (Davis)[16]

WASHINGTON, *December 22, 1923—6 p.m.*

24. In view of the proclamation of martial law by the Government of Honduras this Department has orally informed that Government that it would find it just as difficult to recognize an administration placed in office by oppressive measures on the part of the existing authorities as to recognize an administration coming into power by any other unconstitutional procedure. You may orally inform the Costa Rican Government to this effect.

HUGHES

BOUNDARY DISPUTE WITH GUATEMALA

(See volume I, pages 354 ff.)

BOUNDARY DISPUTE WITH NICARAGUA

(See volume I, pages 362 ff.)

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[16] The same, *mutatis mutandis*, to the missions in Guatemala, Nicaragua, and Salvador.

HUNGARY

RESERVATION BY THE UNITED STATES OF ITS RIGHTS IN REPARATION PAYMENTS BY HUNGARY

464.00 R 29/34 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, *August 22, 1923—11 a.m.*
[Received August 22—9:23 a.m.]

351. L–4. Under article 196, Treaty of Trianon, commission [1] has required surrender by Hungary of Bulgarian treasury bills nominal value 240,000,000 francs. Hungary has delivered bills but calls attention commission to fact that under provisions of the treaty bills are deliverable to Allied and Associated Powers of which United States is one, although not officially represented on commission; also that in treaty with Hungary August 29, 1921, United States reserves rights enjoyed by other Allied and Associated Powers under the Treaty of Trianon. Hungary, therefore, requests commission to assure it that delivery of bills to commission shall not prejudice interests Hungary in case United States eventually protests delivery in compliance with commission's demand. Finance Service proposes commission grant assurance requested by Hungary and advise Hungarian and the United States Governments that it assumes any responsibility that may arise vis-à-vis United States from the fact that bills have been transferred to commission. Since status United States rights under the treaties with Central Powers seems involved, have arranged suspension action giving time to receive possible instructions from the Department. Is Finance Service proposal satisfactory? Logan.

WHITEHOUSE

464.00 R 29/34 : Telegram

The Acting Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, *August 30, 1923—7 p.m.*

337. For Logan. L–5.

Your L–4, August 22, 11 a.m. When matter comes before Commission through consideration of finance service proposal or other-

[1] The Reparation Commission.

wise please state that the Government of the United States is not disposed to raise any objection to requiring Hungary to surrender these bills, but make it clear that the United States is entitled to be consulted regarding their disposition and that it assumes that it will be consulted in due course and before effective disposition is made.

PHILLIPS

464.00 R 29/37

The Unofficial Representative on the Reparation Commission (Logan) to the Secretary of State

PARIS, *November 8, 1923.*
[Received November 24.]

MY DEAR MR. SECRETARY: Reference is made to your cable L–5 of August 30, 1923, and my cable L–4 of August 22nd, 1923, which related to the interests of the United States in certain Bulgarian Treasury Bills payable to Hungary, which were to be surrendered to the Allied and Associated Powers by Hungary pursuant to Article 196 of the Treaty of Trianon. A further question relative to any claim the United States may have in these securities, was raised by Sir John Bradbury in the Meeting of the Reparation Commission on November 6th, which question requires me to ask for supplemental instructions from the Department. I beg to summarize the situation as follows:

On June 9th, 1923, the Hungarian Government presented a "note verbale" to the Reparation Commission in which it referred to the Bulgarian Treasury Bills in the possession of the Hungarian Government, and stated that it was transmitting these Bills to the Reparation Commission pursuant to Article 196 which required transfer to the Allied and Associated Powers. The Hungarian Government pointed out that in view of the fact that the United States was not represented on the Reparation Commission, and in view of the fact that the Peace Treaty concluded with the United States on August 29th, 1921, reserved to the United States the rights conferred upon it by Article 196 of the Treaty of Trianon, the Hungarian Government felt obliged to ask the assurance of the Reparation Commission that its interests would not be prejudiced in the event of objection by the United States to the delivery to the Reparation Commission.

The subject was discussed in the Finance Service and that Service took the view that Hungary might be assured that the Reparation Commission would become accountable for the securities to the Governments concerned, and in particular to the United States Government. A draft letter to Hungary in this sense was prepared and

submitted to this Delegation which led to my L–4 asking for instructions. You replied that when the matter came forward I should state that the United States raised no objection to requiring Hungary to surrender the Bills, but that it should be made clear that the United States is entitled to be consulted regarding their disposition and that it assumes that it will be consulted in due course before effective disposition is made.

This view of the United States was duly communicated to the Finance Service and the Finance Service in its report to the Reparation Commission, which came on the Agenda for the Meeting of November 6th, repeated the language of the reservation made by me at your direction. The Finance Service recommended the sending of a letter to Hungary which, in principle, followed the terms of the original proposed letter to the effect that the Reparation Commission would be accountable to the United States for the Treasury Bills.

Sir John Bradbury asked for a postponement of the question, stating that he hesitated to settle parenthetically, in a letter from the Commission, what might involve a difficult legal problem, i.e. whether the securities in question were delivered to the Allied and Associated Powers which had signed the Treaty, or only to those which had ratified it. He suggested that the immediate matter of the Treasury Bills might be adjusted semi-officially, and upon his motion the question was adjourned.

I am just in receipt of a letter from Sir John Bradbury in which he again intimates that a complicated legal question may be involved, "i.e. Is the reserve of American rights, which may flow from Treaties which the United States has signed but not ratified, made in subsequent Treaties with the ex-enemy powers operative as against signatories of the unratified Treaties which are not themselves parties to the subsequent Treaties?" He goes on to suggest that there may be "a big fight" on this question sooner or later, but that it is certainly undesirable to bring up a matter of large principle with regard to these Treasury Bills which are virtually worthless. He suggests that the United States waive its claim against these particular Bills, making reserves as to its rights in this and similar cessions of the ex-enemy powers, and raise no objection to their being delivered to the Reparation Commission. He suggests that the Allied Powers, if they wish, could then make a counter reserve and thus the fundamental problem be left open.

In practice it is probably true, as Sir John Bradbury suggests, that the Bulgarian Treasury Bills have little or no commercial value.

In practice too it would probably be exceedingly difficult to determine just what percentage of interest we have in the total of the securities, remembering that they were ceded not to the principal Allied and Associated Powers but to all the Allied and Associated Powers. Finally, there is an additional point which neither Sir John nor any one else has so far called attention to. By Article 124 of the Treaty of Neuilly (which was signed by our diplomatic representatives), Bulgaria recognised the transfer to the Allied and Associated Powers of these Treasury Bills, but the Allied and Associated Powers expressly agreed not to require from Bulgaria any payment in respect of the claims so transferred, giving as a reason that these matters had been taken into account in fixing the global sum to be paid by Bulgaria as reparation.

In view of this express release of the Allied and Associated Powers, to which our diplomatic representatives at least assented, it would seem very difficult, from a moral and equitable point of view, for the United States to attempt to collect anything from Bulgaria on this paper ceded by Hungary. It might be that we have some sort of claim against the other Allied Powers on the theory that part of the reparation they get from Bulgaria contains some allowance for the value of these Bills.

I request your instructions on the compromise proposal of Sir John Bradbury. It would avoid discussion of the legal rights of the United States under all the Treaties, in connection with a particular and highly special case which is weakened by the complications outlined above, and which centers around a claim of dubious financial value and involves the difficult mathematical problem of determining what is the percentage of our share in that financial value, if any exists.

Upon the general proposition of law, this Delegation has consistently maintained—as in the case of the cables under Annex VII of Part VIII of the Treaty of Versailles, for example—that a cession to the Allied and Associated Powers created an interest of the United States in such cession, particularly in view of the separate Treaties confirming and reserving these interests. The matter has never been formally decided or formally discussed by the Commission and it is perhaps well to reserve any discussion to a clear cut case.

Faithfully yours,

JAMES A. LOGAN, JR.

464.00 R 29/37 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *December 7, 1923—2 p.m.*

444. L–16. For Logan. Your letter of November 8.

The Department has noted the provisions of article 124, Treaty of Neuilly, and after considering the questions involved is unable to see how the Bulgarian treasury bills Hungary has turned over to the Reparation Commission could be realized on by the states parties to that treaty. Though the Government of the United States maintains its right to have an effective voice in the disposition of Hungary's assets, the title to which under article 196 of the Treaty of Trianon is transferred to the Allied and Associated Powers, this Government does not desire to have a part in the matter of disposing of these treasury bills.

In an appropriate way you may make the position of this Government in the matter clear.

HUGHES

JAPAN

CANCELATION OF THE LANSING-ISHII AGREEMENT OF NOVEMBER 2, 1917[1]

793.94/1406a supp. : Telegram

The Secretary of State to the Ambassador in Japan (Warren)

WASHINGTON, *January 20, 1923—3 p.m.*

6. My telegram No. 1, January 2, 6 p.m.[2]

The Japanese Chargé d'Affaires speaking ostensibly in a purely personal way laid before me yesterday his difficulties in advising his Government as to the action to be taken in regard to the cancellation of the Lansing-Ishii notes, . . . The Chargé d'Affaires asked whether the cancellation might perhaps be postponed until the coming into force of the Conference treaties. He added that this suggestion had been informally discussed with you and had received your approval.

I explained my view that the cancellation has already been effected by mutual agreement; but that to avoid creating embarrassment for the Japanese Government at this juncture I should be willing to consider postponing for a time the public announcement of the fact. I pointed out, however, that this postponement must be limited by the necessity for our submitting in the reasonably near future the list of our international commitments with regard to China, which list could not include the exchange of notes in question.

The Chargé d'Affaires called attention to the danger that his Government might incur criticism by suppressing for any considerable period of time the announcement of the accomplished fact, and returned to the suggestion that the cancellation itself might be postponed.

I indicated that this would not be possible but that the utmost I could do in deference to the situation of the Japanese Cabinet would be to consider postponing the announcement.

I should appreciate your comment upon this matter from the viewpoint that, while not wishing to force the Japanese Government

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[1] Continued from *Foreign Relations*, 1922, vol. II, pp. 591–599.

[2] Not printed.

into a position of unnecessary embarrassment, I cannot surrender or compromise the position of this Government with regard to the cancellation of the notes. . . .

HUGHES

793.94/1422 : Telegram

The Secretary of State to the Chargé in Japan (Wilson)

WASHINGTON, *April 6, 1923—3 p.m.*

31. Department's telegram No. 28, March 30, 2 p.m.[3]

Japanese Ambassador on April 3 asked me whether . . . I would be willing as a matter of formality to embody in an exchange of notes a formula setting forth the cancellation of the Lansing-Ishii notes, with a view to the presentation to the Throne and consideration by the Privy Council of this new exchange of notes. I expressed my readiness to accommodate the Japanese Government in the matter of form on the understanding that the substantial facts are not affected. On April 4th I submitted to the Japanese Ambassador tentative drafts of an exchange of notes, of which the following is the essential portion.

"The discussions between the two Governments have disclosed an identity of view and, in the light of the more recent formulation of principles and policies with respect to China, arrived at by the Washington Conference on the Limitation of Armament, and incorporated in the conclusions of that Conference, the American and Japanese Governments are agreed to consider the Lansing-Ishii correspondence of November 2, 1917, as canceled and of no further force or effect."

Mail copy to Peking for information only.

HUGHES

793.94/1460 : Telegram

The Chargé in Japan (Wilson) to the Secretary of State

TOKYO, *April 11, 1923—4 p.m.*

[Received April 11—9:38 a.m.]

34. Your 31, April 6, 3 p.m. Count Uchida summoned me today to inform me that the final draft of the notes to be exchanged regarding the cancellation of the Lansing-Ishii agreement had been approved by the Privy Council this morning and sent to the Throne. He anticipated that the Prince Regent would give his approval before sailing for Formosa tomorrow.

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[3] Not printed.

Count Uchida stated consultation of Privy Council was necessary since the original Lansing-Ishii agreement had been submitted to that body. As soon as Prince Regent's approval is obtained Hanihara will be instructed to exchange documents with you.

Count Uchida is most appreciative of Department's consideration shown in discussions concerning the publication of the cancellation.

WILSON

793.94/1460 : Telegram

The Secretary of State to the Chargé in Japan (Wilson)

WASHINGTON, *April 13, 1923—5 p.m.*

33. Your No. 34, April 11, 4 p.m.

Japanese Ambassador informed me yesterday that the Throne had approved proposed exchange of notes in a form substantially but not textually the same as indicated in my telegram 31, April 6, 3 p.m. Minister for Foreign Affairs will no doubt furnish actual texts upon your making request for them for confidential information. In that case telegraph to Peking for confidential information the text of the note which I am to address to Ambassador and confirmatory portion of his proposed reply.

Notes are to be signed and exchanged on the morning of Saturday, April 14, but public announcement, which is to take the form of a mere publication of texts without comment, is to be released for publication in the papers on Monday morning April 16, both here and in Japan.

Repeat to Peking for confidential information only as number 62.

HUGHES

Treaty Series No. 667

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *April 14, 1923.*

EXCELLENCY : I have the honor to communicate to Your Excellency my understanding of the views developed by the discussions which I have recently had with your Embassy in reference to the status of the Lansing-Ishii Exchange of Notes of November 2, 1917.

The discussions between the two Governments have disclosed an identity of view and, in the light of the understandings arrived at by the Washington Conference on the Limitation of Armament, the American and Japanese Governments are agreed to consider the Lansing-Ishii correspondence of November 2, 1917, as cancelled and of no further force or effect.

I shall be glad to have your confirmation of the accord thus reached.

Accept [etc.] CHARLES E. HUGHES

Treaty Series No. 667

The Japanese Ambassador (Hanihara) to the Secretary of State

WASHINGTON, *April 14, 1923.*

SIR: I have the honor to acknowledge the receipt of your note of today's date, communicating to me your understanding of the views developed by the discussions which you have recently had with this Embassy in reference to the status of the Ishii-Lansing Exchange of Notes of November 2, 1917.

I am happy to be able to confirm to you, under instructions from my Government, your understanding of the views thus developed, as set forth in the following terms:—

The discussions between the two Governments have disclosed an identity of view and, in the light of the understandings arrived at by the Washington Conference on the Limitation of Armament, the Japanese and American Governments are agreed to consider the Ishii-Lansing correspondence of November 2, 1917, as cancelled and of no further force or effect.

Accept [etc.] M. HANIHARA

COURT DECISIONS IN THE UNITED STATES UPON THE CONSTITUTIONALITY OF THE LAND LAWS OF THE STATES OF CALIFORNIA AND WASHINGTON[7]

811.5294/411a : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *November 17, 1923—6 p.m.*

251. On November 12 the Supreme Court of the United States handed down decisions in two cases, *Terrace et al* vs *Thompson*,[8] and *Porterfield et al* vs *Webb*,[9] holding that the laws of Washington and California restricting rights of ownership and lease for agricultural purposes of land within those two states are constitutional and not in conflict with the treaty of 1911 with Japan.[10]

The Washington act, among other things, prohibits the ownership of land by aliens who have not declared, in good faith, their

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[7] For previous correspondence regarding the California land law, see *Foreign Relations*, 1920, vol. III, pp. 1 ff. and *ibid.*, 1921, vol. II, pp. 319 ff.

[8] 263 U. S. 197.

[9] 263 U. S. 225.

[10] For text of treaty, see *Foreign Relations*, 1911, p. 315.

intention of becoming citizens of the United States. The California statute permits to aliens not eligible to citizenship only such rights in land as are prescribed by treaty.

The Court held that the rule established by Congress on the subject of citizenship furnishes a reasonable basis for classification in a state law withholding from aliens the privilege of land ownership as defined in the act, and that it is clearly within the power of the state to include non-declarant eligible aliens and ineligible aliens in the prohibited classes.

Copies of these decisions will be sent you by mail.

HUGHES

811.5294/411a supp. : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *November 23, 1923—3 p.m.*

255. Department's number 251 November 17, 6 p.m. On November 19, Supreme Court handed down decisions in two further cases.

In the case of *Webb* vs. *O'Brien*,[11] suit was brought by O'Brien and Inouye to enjoin Attorney General of California, *et al* from instituting proceedings to enforce California Alien Land Law against them. Injunction was granted and Attorney General appealed. Opinion of Supreme Court reversing order granting injunction reads in part as follows:

"By the proposed cropping contract, Inouye is given the right for a term of four years to plant, cultivate and harvest crops—berries and vegetables—on the land and to be free from interference by the owner, who undertakes to protect him during the term against interference by any other person. He is entitled to housing for himself, and is granted the right to employ others to work on the land, and to give to them free ingress and egress and the right to live on the land. He is entitled to one-half of all crops grown on the land during the term, to be divided after they are harvested and before removal from the land, and is given a reasonable time after the expiration of the term to remove his share of the crops. He is required to accept his share of the crops as reimbursement for expenditures made to carry on the farming operations, and as his only return from the undertaking. Assuming that the proposed arrangement does not amount to a leasing or to a transfer of an interest in real property, and that it includes the elements of a contract of employment, we are of opinion that it is more than a contract of employment; and that, if executed, it will give to Inouye a right to use and to have or share in the benefit of the land for agricultural purposes. And this is so, notwithstanding other clauses of the contract to the effect that the general possession of the land is reserved to the owner, that the cropper shall have no interest or estate what-

[11] 263 U. S. 313.

ever in the land, that he is given one-half of all crops grown as compensation for his services and labor, and that division of the crops is to be made after they are harvested and before their removal from the land."

In *Frick* v. *Webb*,[12] Frick citizen of the United States owned 28 shares capital stock of Merced Farm Company, owning 2,200 acres farm land in California, and desired to sell shares to Satow, Japanese subject, who desired to buy them. Suit for injunction denied by lower court and decision affirmed by Supreme Court which stated:

"The State has power, and the act evidences its purpose to deny to ineligible aliens permission to own, lease, use or have the benefit of lands within its borders for agricultural purposes. *Webb* v. *O'Brien*, supra. 'As the State has the power . . .[13] to prohibit, it may adopt such measures as are reasonably appropriate or needful to render exercise of that power effective.' It may forbid indirect as well as direct ownership and control of agricultural land by ineligible aliens. The right 'to carry on trade' given by the treaty[14] does not give the privilege to acquire the stock above described. To read the treaty to permit ineligible aliens to acquire such stock would be inconsistent with the intention and purpose of the parties. We hold that the provision of section 3 of the Alien Land Law does not conflict with the Fourteenth Amendment or with the treaty."

HUGHES

811.5294/414

The Japanese Embassy to the Department of State

SUBSTANCE OF INSTRUCTIONS RECEIVED BY THE JAPANESE AMBASSADOR FROM HIS GOVERNMENT

The question of the treatment of Japanese subjects lawfully resident in the United States has been the subject of repeated representations on the part of the Japanese Government to the Government of the United States, especially in regard to the California Alien land Laws of 1913 and 1920.

The position taken by the Japanese Government on this question, which unfortunately still remains unsolved, is well-known to the United States Government. (*Vide* the Japanese Ambassador's notes or memoranda to the Secretary of State dated respectively May 9, 1913, June 4, 1913, July 3, 1913, August 26, 1913[15] and January 3, 1921[16]).

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[12] 263 U. S. 326.
[13] The omission is indicated on the original.
[14] Treaty of commerce and navigation between the United States and Japan, signed Feb. 21, 1911, *Foreign Relations*, 1911, p. 315.
[15] *Ibid.*, 1913, pp. 629, 632, 635, and 651, respectively.
[16] *Ibid.*, 1921, vol. II, p. 319.

The recent decisions of the United States Supreme Court in *Porterfield* v. *Webb* and three other kindred cases, which upheld the validity of the laws of California as well as similar legislation of another State, together with the previous decision determining the non-eligibility of Japanese to United States citizenship,[17] have afforded Japanese subjects resident in the United States no relief whatever, but have confirmed the rigorous limitations placed upon them in the enjoyment of those ordinary civil rights which are freely accorded to nationals of many other countries, even of those having no treaty relations or engagements with the United States; a situation which is apparently without parallel in the history of modern commercial intercourse between friendly nations.

Although it would be premature to attempt an accurate estimate of the effect these decisions will have upon the actual interest of Japanese in the United States, or to speculate on the course these particular Japanese might choose to follow in the future, it is sufficiently evident, that, in view of the fact that no small portion of Japanese residents in the Pacific Coast States have hitherto been permitted to find their legitimate living in agriculture and in businesses closely connected therewith, these decisions will seriously affect the living of a great many of them. In spite of all that is and has been said against them, no impartial observer of the facts in the case would deny that these peaceful, law-abiding, energetic and thrifty people have, by their honest labor, contributed in a marked degree to the development and prosperity of local industry. And yet they are made to suffer an unbearable hardship—unbearable because their immediate means of livelihood is jeopardized—in the name of the legislative freedom of the people of the community, whose welfare they have served so much to promote, simply because the exercise of such freedom is found technically defensible under the existing laws of the country.

Furthermore, if the matter were to be left without recourse to some remedial measure other than judicial, it is feared that the so-called anti-Japanese element in the States where its activity has hitherto been permitted to develop freely, will find in the decisions of the highest tribunal of the country encouragement to devise still further means of persecution against Japanese, and it is not unlikely that the sinister influence of such a movement would soon be extended to other States. Events in the political and legislative history of the Pacific Coast and neighboring States in the past few years will furnish sufficient ground for such apprehension.

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[17] *Takao Ozawa* v. *United States*, 260 U. S. 178.

In these circumstances the Japanese Government feel constrained to call the most earnest attention of the Government of the United States to this matter and invite their friendly consideration of it with a view to some adjustment thereof, which shall be fair and satisfactory to both sides.

It would be needless to recall here the sincere desire and earnest effort of the Japanese Government and people to preserve and draw still closer by all means the important and happy relations of traditional friendship and good neighborhood with the American Government and people. Nothing would be sadder and more disappointing to the Government and people of Japan than to discover a serious difference with their esteemed and trusted friends across the Pacific. That the Japanese Government and people are fully determined to exhaust all just and honorable means to reach a fair and rational solution of the question which has unhappily been pending between the two countries for some years, is sufficiently demonstrated by the degree of forbearance the Japanese have been exercising through the various stages of the discussions, extending over a period of more than a decade. It is confidently believed that the United States Government entertains no misgiving in this respect. Nor is it doubted that the United States Government may lack proper appreciation of the grave effect the judicial decisions above referred to cannot fail to exercise upon the vital interests of the Japanese lawfully resident in the United States.

It is not the intention of the Japanese Government to venture any comment as to the soundness of the judgment passed by the high and distinguished American tribunal that justly holds its place of honor in the annals of the history of the administration of justice. All that the Japanese Government claim for their subjects in the United States is, as elsewhere, fair and equal treatment, in the matter of enjoyment of ordinary civil rights, such as is given freely to other nationals, to which they believe they are justly entitled, and therefore the Japanese Government are unable to acquiesce in these measures adopted by several States of the Pacific Coast, which in their opinion unfairly and indiviously [*invidiously?*] discriminate against Japanese, for the discrimination is not based on their individual merits, but on the race or nationality to which they belong. In this claim the Japanese Government are only voicing the united sentiment of the whole people of Japan.

At the same time the Japanese Government cannot believe, even for a moment, that the United States Government, which stands at all time for international justice based on broad principles of human right and liberty, should ever approve the practice of singling out the nationals of a friendly Power, which has a very natural and

worthy pride of its recognized position in the family of nations, as the object of obnoxious discrimination. On the contrary there is every reason to believe that the United States Government is just as earnest as are the Japanese Government in the desire to maintain and strengthen the friendly relations between the two countries and co-operate in every way possible for betterment of the world's condition in general, which seems to demand today, more than ever, full accord between the two great Powers on the Pacific.

It is with these considerations in mind that the Japanese Government, in a mostly friendly spirit and with perfect candor, reiterate their request to the United States Government to give the matter its serious consideration, to the end that some steps be taken looking to the removal of the undue hardship inflicted upon Japanese in the United States and to the prevention of a recurrence of such legislative or other form of persecution against them. Having unwavering faith in the well-known sense of justice and fair play of the American people, the Japanese Government cannot but feel confident that this people will not be loath to support their Government in any honorable endeavor it may make in order to satisfy the just and reasonable claim of a friendly nation. Vexatious as the question may seem at first glance, the Japanese Government remain unshaken in their conviction that it is not one of differences in fundamental principles, but largely an outcome of misunderstanding or misapprehension created by unfortunate local conditions, and is, if approached in a proper spirit, susceptible of a solution which will be consistent with honor and the true interests of both countries.

The Japanese Government earnestly hope that the matter as presented above will commend itself to an early and sympathetic consideration of the United States Government.

WASHINGTON, *December 4, 1923.*

811.5294/413 : Telegram

The Chargé in Japan (Caffery) to the Secretary of State

TOKYO, *December 5, 1923—2 p.m.*
[Received December 5—9:40 a.m.]

188. Department's telegram no. 255, November 23rd. Since publication of Supreme Court decision, agitation in Japanese press concerning Pacific Coast land question, while not violent, has been increasing and a number of Japanese associations interested in emigration have been publicly urging the Foreign Office that, "Owing to the now prevalent sympathy for Japan among American people, moment is opportune for suggesting to the American Government

the appointment of a joint high commission to investigate whole matter."

However, no comments have been made at Foreign Office to me on the question.

CAFFERY

811.5294/411a supp.

The Secretary of State to the Chargé in Japan (Caffery)

No. 53 WASHINGTON, *December 12, 1923.*

SIR: Referring to the Department's telegrams Nos. 251 of November 17 and 255 of November 23, 1923, in regard to the recent decisions of the Supreme Court upholding the constitutionality and validity under the treaty with Japan of the Alien Land Laws of California and Washington, the Department encloses a copy of each of the following decisions:[18] *Terrace et al.* v. *Thompson; Porterfield et al.* v. *Webb et al.; Webb et al.* v. *O'Brien et al.; Frick et al.* v. *Webb.*

In connection with these decisions of the Supreme Court of the United States it is interesting to note that the Supreme Court of the State of California has ruled that the provisions of the Alien Land Law relating to guardianship matters are unconstitutional. These provisions were not considered or passed upon by the Supreme Court of the United States in rendering the above mentioned decisions. The following statement is quoted from the opinion delivered by the Supreme Court of the State of California in the case of *In re* Estate and Guardianship of Yano,[19] decided by that Court on May 1, 1922:

"Our law provides that the father or mother of a minor child less than fourteen years of age, if competent, is entitled to be appointed guardian of such child in preference to any other person. (Code Civ. Proc., sec. 1751.) This law is general in terms. It is not confined to citizens in its application, but purports to confer the right upon all residents regardless of citizenship. The initiatory act of 1920 (Stats. 1921 lxxxiii, sec. 4), by its terms, forbids the appointment of any alien not eligible to citizenship as guardian of a minor with respect to property of the minor of a character which such alien cannot acquire for himself, that is to say, with respect to agricultural land belonging to such minor. Its effect is that a citizen of Japan who is the parent of a native-born child cannot be appointed guardian of the property of the child where that property consists entirely of agricultural land. This restriction is not put upon a citizen of any country whose citizens are eligible to citizenship here, nor upon any other class of residents of this state who

[18] Enclosures not printed.

[19] *In re* Tetsubumi Yano's Estate, 206 Pac. 995.

are not citizens thereof. It is clearly a discrimination against citizens of Japan residing in this state.[20]

. . . . . .

"The object sought to be attained by these statutory provisions, that is, to discourage the coming of Japanese into this state, may be a proper one, and may be even desirable for the promotion of the welfare and progress of the state. The court can only consider its validity under the limitations of the Constitution. A similar object prompted the adoption of the anti-Chinese provisions of the Constitution of 1879, which, so far as they were effectual, were declared invalid by the federal courts. This entire question is international in character and is a matter properly to be disposed of by the Federal Government. Appeal for its adjustment should be made to Congress, rather than to attempt to accomplish it by discriminatory legislative measures of the state.

"Our conclusion is that the provisions of the initiative act of 1920 forbidding the appointment of an alien resident, ineligible to citizenship, as guardian of the farming land of his native-born child, and authorizing the removal of such parent, if previously appointed as such guardian, are invalid."

I am [etc.]

For the Secretary of State:
LELAND HARRISON

AMERICAN ASSISTANCE TO THE JAPANESE FOLLOWING THE EARTHQUAKE OF SEPTEMBER 1, 1923

894.48B/52a : Telegram

President Coolidge to the Emperor of Japan

WASHINGTON, *September 1, 1923.*

At the moment when the news of the great disaster which has befallen the people of Japan is being received I am moved to offer you in my own name and in that of the American people the most heartfelt sympathy and to express to your Majesty my sincere desire to be of any possible assistance in alleviating the terrible suffering to your people.

CALVIN COOLIDGE

894.48B/4a : Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 2, 1923—noon.*[21]

105. Please convey to the Minister of Foreign Affairs an expression of the heart-felt sympathy of this Government in the appalling

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[20] The omission which follows is indicated on the original instruction.
[21] Repeated Sept. 5, 9:45 a.m.

catastrophe which has befallen the Japanese people and assure him that this country is anxious to do whatever lies in its power to alleviate the grief and suffering in Japan.

Please also convey to the Minister an expression of my personal and profound sympathy.

PHILLIPS

894.48B/3 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State [22]

IWAKI [*undated*].

[Received September 4, 1923—3:21 a.m.]

All Americans believed safe. All Embassy buildings totally destroyed but no one in Embassy injured. Food situation very acute. Send rations at once from Philippines.

WOODS

Press Release Issued by the Department of State, September 3, 1923

The President has issued the following appeal:

"To the People of the United States: An overwhelming disaster has overtaken the people of the friendly nation of Japan. While its extent has not as yet been officially reported, enough is known to justify the statement that the cities of Tokyo and Yokohama, and surrounding towns and villages, have been largely if not completely destroyed by earthquake, fire and flood, with a resultant appalling loss of life and destitution and distress, requiring measures of urgent relief. Such assistance as is within the means of the Executive Department of the Government will be rendered; but realizing the great suffering which now needs relief and will need relief for days to come, I am prompted to appeal urgently to the American people, whose sympathies have always been so comprehensive to contribute in aiding the unfortunate and in giving relief to the people of Japan.

In order that the utmost coordination and effectiveness in the administration of the relief funds be obtained I recommend that all contributions, clearly designated, be sent to the chairman of the American National Red Cross at Washington or to any of the local Red Cross chapters for transmission to Japan."

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[22] This message was the first report to the Department by the Ambassador in Japan after the earthquake. It was sent Sept. 2 by radio from a Japanese warship.

894.48B/8a : Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)[23]

WASHINGTON, *September 3, 1923—4 p.m.*

106. The Department is greatly concerned on account of the disaster which has overwhelmed Tokyo and the adjacent parts of Japan and is most apprehensive as to the safety of the Embassy staff, consular officials, and American citizens in the affected areas. The Navy Department has already despatched vessels of the Asiatic fleet to render all possible assistance, and the American Red Cross is taking active steps to the same end, an appeal for public funds having been issued today by the President. The Department is instructing Consul-General at Large Johnson, with assistants, to proceed to Yokohama for the purpose of assisting in Consular administration and in aid to American citizens. Consul Ballantine is also being sent to Yokohama. As yet no reports have been received from any American officials in Japan and newspaper reports are fragmentary, which fact intensifies the fears of the Department as to the extent of the disaster and the safety of its officials. The Department hopes that they personally have escaped injury and anxiously awaits reports. Suggestions will be appreciated concerning any measures which the Department may take or initiate for the alleviation of distress, whether relating to the welfare of American citizens or to the general situation. The fullest information concerning the welfare of individual Americans is desired in order that the Department may be able to answer the numerous inquiries received. Information is also desired as to the most feasible methods for the transmission of funds under present conditions.

PHILLIPS

894.48B/10 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

IWAKI, *September 4, 1923.*

[Received 10:55 p.m.]

Communications have just been opened up with Yokohama. The situation there is exceedingly serious and some Americans are reported to have lost their lives. The casualties in Tokio are estimated at 10,000. I believe all Americans in Tokio are safe. The food situation is acute. Send supply from Philippines at once as already requested. The fire-proof vault of the Embassy was not fire-proof and all Embassy records are burned.

WOODS

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[23] The same telegram was sent to the consuls at Kobe and Nagasaki.

894.48B/39 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *September 4, 1923.*
[Received September 8—12:45 a.m.]

This disaster without precedent in history, one-half million dead, several million destitute and homeless, there is utter lack every necessity. President of the United States should issue an appeal at once to the American people relief along lines mentioned in my previous telegrams.

WOODS

894.48B/22 : Telegram

The Consul at Kobe (Dickover) to the Secretary of State

KOBE, *September 5, 1923.*
[Received 7:28 p.m.]

Replying to Department's telegram 3d.[24] Yokohama completely destroyed by earthquake and fire, no business houses nor homes remaining standing. Consulate general collapsed and burned killing Kirjassoff and wife, Vice Consul Jenks, Kuribara,[24a] and Russian clerk. Kirjassoff's two children, Vice Consuls Sturgeon, Nason, and Wardell and Miss Martin safe. Naval Hospital destroyed, Commander Webb badly injured, pharmacist Zembsch and wife killed, and two enlisted men reported killed. Owing to complete destruction of city, lack of food and water, and danger from hunger-driven and uncontrolled Japanese, all foreign residents are proceeding to Kobe. Four refugee vessels have arrived already. Miss Martin with Kirjassoff children has arrived, and Nason, Sturgeon, and Wardell expected today. Ambassador Woods and entire staff of Embassy Tokyo reported safe and well. Approximately half Tokyo destroyed by fire, and some foreign residents proceeding to Kobe. Kobe residents have raised funds and are working day and night to assist refugees but funds insufficient for lengthy period and aid desired. Tokyo and Yokohama banks not functioning and funds should be sent to me through International Banking Corporation. Suggest send $50,000 for relief destitute foreigners. No estimate can be made of aid required by Japanese in Yokohama and Tokyo as communications still out but shall communicate with Tokyo as soon as possible regarding most necessary requirements. Shipping Board steamships being used for relief of foreigners, and I have offered two vessels to Japanese authorities. *President Jefferson* will leave today with about 300 destitute Americans and aliens who will need assistance

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[24] See footnote 23, p. 467.
[24a] Kuribara was injured, not killed.

at Seattle. America[n] dead so far as now known, in addition to those before mentioned, are Elizabeth Dodson of Kingston, North Carolina, and Bess and Richard Mandell of Cleveland, Ohio, but several others believed killed. Further lists later. Owing complete disorganization Tokyo district, necessary use Kobe as center consular activities in Japan for some time to come.

DICKOVER

894.48B/52k : Telegram

The Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 6, 1923.*

131. I gave to the press this afternoon the following statement:

"The American people have been inexpressibly shocked at the terrible disaster suffered in Japan. We have already given voice to our deep sympathy and we shall be prompt and generous in urgent relief measures. The historic friendship between the two peoples was cemented at the Washington Conference, and the noble attitude of the distinguished representatives of the Japanese Government at that Conference can never be forgotten. There is a universal desire among us not only to express our grief at this appalling tragedy but to lend in every way a helping hand to our friends who are so sorely afflicted."

HUGHES

894.48B/51 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State [25]

TOKYO, *September 6, 1923.*
[Received September 10—3:40 p.m.]

President's message of sympathy profoundly touched Japanese officials and appealed [*appeals?*] for aid and prompt despatch of American relief ship. It is essential, in order to preserve beneficial effect of this action, that no friction between American and Japanese subsequent development. Relief supplies should therefore be delivered to Japanese authorities on arrival and no attempt at distribution should be made by any American organization. Part Two. Small incident could turn present happy relation into hostile [apparent omission] as temper of populace is highly excitable. In view of this I have informed Vice Minister Tanaka that we will deliver to Japanese authorities upon arrival and have asked that person to receive them be designated. He will inform me through the [apparent omission]. Order is being maintained and by [time?] of arrival center and all necessary facilities for handling relief will have been [completed?].

WOODS

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[25] Received in paraphrase through Navy Department.

894.48B/45 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *September 6, 1923.*
[Received September 9—12:58 p.m.]

Situation now thoroughly in hand. Five destroyers arrived from Chefoo and Admiral Anderson on Flagship *Huron* reached Yokohama this afternoon. All American survivors Yokohama on ships and in safety. Embassy evacuated 140 American tourists Tokio today on American destroyers and 21 British tourists.

Relief ships being landed [*loaded?*] in Tsingtau and Manila. Arrival of fleet dispels danger of hunger among Americans.

WOODS

894.48B/82

The Japanese Ambassador (Hanihara) to the Secretary of State

WASHINGTON, *September 7, 1923.*

MY DEAR MR. SECRETARY: Learning of your return to the City, I hasten to express to you my most profound appreciation of the sympathy of your Government and people, so spontaneously and generously manifested to my people in the greatest trial they have been called upon to face. The prompt and effective manner in which this sympathy is being translated into substantial aid for afflicted Japan is most helpful and encouraging. I am taking every possible means to make this known to my people at home, and I need not assure you how very gratefully it will be received by the entire nation of Japan.

My first thought was to ask you for a short interview this morning, but then I realized how fully you must be occupied in your office so soon after your return. Hence this imperfect expression of my gratitude.

I am [etc.]

M. HANIHARA

894.48B/504

The Acting Chairman of the American Red Cross (Fieser) to the Under Secretary of State (Phillips)

WASHINGTON, *September 8, 1923.*

MY DEAR MR. PHILLIPS: Following the first news of the Japanese disaster last Saturday, the American Red Cross thru the State Department made an immediate offer of assistance to the Japanese Red Cross. One hundred thousand dollars was appropriated for this purpose which has since been transmitted thru the State Department to

Tokyo. An additional $32,500.00 has been placed at the disposal of Ambassador Woods for the relief of Americans. The Chairman of the Red Cross Chapter at Manila has been directed by cable to make an immediate survey of food supplies particularly rice, and to purchase sufficient of these supplies to supplement the cargoes being shipped on army transports which were leaving Manila immediately for Japan.

These measures were taken after conferences with Treasurer Eliot Wadsworth and members of my executive staff and put into effect with the approval of President Coolidge.

On Monday, September 3rd, President Coolidge issued an appeal to the American people putting the responsibility on the American Red Cross for the collection of funds for Japanese relief. Immediately thereafter a conference was held at National Headquarters participated in by Secretary of Commerce Herbert Hoover, Assistant Secretary of the Treasury Eliot Wadsworth, members of our Executive Committee, Japanese Ambassador Hanihara and myself, as Acting Chairman in the absence of Judge Payne.

At this conference it was decided in general that the disaster was of such tremendous dimensions that the American Red Cross should make an appeal for at least five million dollars to provide money with which to purchase necessary hospital food and other emergency supplies. It was also determined that the State Department should be requested to secure the appointment by our Ambassador in Japan of a committee of leading American citizens, this committee to act as a liaison between the Japanese and American Red Cross societies. President Coolidge gave an immediate audience and heartily approved both steps. On appointment this committee will be available for information and contacts, but it is believed that the Japanese Red Cross, which is a very efficient organization, will handle all distribution of supplies and other general relief problems without outside aid. It was therefore presumed by the conference that it will be unnecessary to send American personnel to Japan. It was also determined that no attempt should be made to collect used clothing.

After the conference telegraphic instructions were sent to all Division Managers and definite quotas making up the five million dollar relief fund were set up. The response was immediate and each manager has given assurance that full return will be made. As an example of the responses which have come in, let me quote from a wire received from Mr. William M. Baxter, Jr., Manager of the Southwestern Division with headquarters at St. Louis:

"Executive Committee meeting St. Louis Chapter held with real war time spirit. Quota of $65,000 raised to $100,000 and banks and merchants pledged their organizations for definite amount."

In no instance has a Division manager considered his quota too large. On the contrary many consider the amount asked for too small.

Daily conferences are being held participated in by Mr. Hoover, Mr. Wadsworth, Ambassador Hanihara. Plans have been perfected to handle any kind of relief that may be suggested in answer to our cable to the Japanese Red Cross.

The headquarters staff has been augmented for the emergency by the addition of a special Japanese Relief Publicity group under the leadership of Mr. R. C. Mayer. Mr. W. Gordon Brown, former director of Purchases and Transportation of the American Relief Administration will handle the emergency supply bureau and Mr. Walter F. Rogers who has spent some time in Japan and Mr. E. J. Swift will act as special assistants to the Acting Chairman. Mr. John Poole, president of the Federal National Bank has been made director of Group Organization and is endeavoring to secure the cooperation of fraternal and civic bodies. Mr. D. H. Blake, a well known retired business man of Tokyo, whose long residence there has given him an intimate knowledge of Japan, has volunteered to act as a special councilor on Japanese conditions.

Closely following instructions to Division Managers telegrams to leading organizations of the country were sent with the result that the U. S. Chamber of Commerce, the Federated Council of Churches, the Jewish Welfare Board, Y. M. C. A., and other bodies have telegraphed their constituent societies to back up our local chapters to the limit of their resources in the drive for funds.

Every force in the country seems to have combined with the American Red Cross to raise a sum in excess of the amounts asked for and late returns indicate that this will be done.

Yours very sincerely,

JAMES L. FIESER

894.48B/47

The Japanese Embassy to the Department of State

[Translation]

INSTRUCTIONS RECEIVED BY THE JAPANESE AMBASSADOR FROM COUNT YAMAMOTO, HIS MAJESTY'S PRIME MINISTER AND FOREIGN MINISTER

You are instructed to see the President and the Secretary of State and to communicate to them the following message:

At a time when Japan was making her best endeavors to follow the letter and spirit of the Versailles Treaty and the Washington Treaties, which, we believe, have laid the foundation of World

Peace and will greatly promote human welfare, the Empire was visited by a most appalling disaster, in which all the elements combined.

In this hour of deep grief and anxiety, felt alike by the Emperor and all his subjects, the President of the United States issued a Proclamation urging the American people to come to the aid of the stricken people of Japan and designating the American Red Cross to administer the relief work. Then the Commander of the American Asiatic Fleet lost no time in dispatching the ships under his command to the scene of the disaster and offered the services of the entire fleet for the immediate relief of the sufferers. Some of these vessels have already arrived in the harbor of Yokohama. At the same time the Philippine Government sent transports loaded with full cargoes for the relief.

In the midst of the bewildering devastation, the American Ambassador Woods, together with the staff of the Embassy and Americans resident in Japan, are helping the relief work with a marvelous spirit of self-sacrifice in spite of the fact that the Embassy itself was destroyed by fire.

The report of these spontaneous and prompt measures, taken by the President, the Government and the people of the United States, is creating a profound impression in the grateful hearts of suffering Japan.

With these facts in mind, I desire to express in the name of the Japanese Government their most heartfelt thanks to the American Government, and at the same time to convey to the President and people of the United States the deep sense of gratitude of my Sovereign and of the entire nation of Japan for this noble manifestation of a sincere and generous sympathy. I am happy in believing that this precious gift of American sympathy in the hour of greatest trial for the Japanese nation, cannot but serve the Peace of the World, in drawing still closer the bond of friendship and trust between the two countries.

WASHINGTON, *September 9, 1923.*

894.48B/77 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *September 10, 1923.*
[Received September 15—10:30 a.m.]

27. Realizing the response the American people and their warmhearted desire to assist the Japanese Government, I fear that they will not appreciate the attitude of the Japanese Government. They feel were able to handle these activities ashore and have already informed foreign governments to this effect, and naturally could not make an exception of the United States. In other words, it would be extremely inadvisable to have your relief expeditions sent from the United States for the purpose of functioning ashore. With the help of the Admiral and General McCoy, the present organiza-

tion is well able to handle the situation to the satisfaction of the Japanese Government.

WOODS

894.48B/82

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *September 10, 1923.*

MY DEAR MR. AMBASSADOR: Permit me to express my deep appreciation of your personal letter, which I received on Saturday. I am grateful to you for this friendly expression and you may be assured that our people will leave nothing undone to testify to their warm sympathy and their desire to aid in every practicable way the people of Japan in this hour of terrible affliction. It is in the presence of such tragic events, that the true sentiment of peoples is manifested and the bonds of friendship are made indissoluble.

With high regard [etc.] CHARLES E. HUGHES

894.48B/51 : Telegram

The Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 11, 1923—4 p.m.*

150. Your September 6, received September 10, regarding delivery of relief supplies to Japanese authorities.

The Department and the Red-Cross share your views as expressed in the above telegram and feel that all relief supplies should be delivered to the Japanese authorities. Department is transmitting to you today a telegram from the Red-Cross [26] stating specifically its desires in the matter of administering relief measures.

You will disregard the Department's 142, September 8, 11-a.m.[26] and be guided by the Red-Cross' telegram which is being transmitted to you today by the Department.

HUGHES

894.48B/64

The Japanese Ambassador (Hanihara) to the Secretary of State

WASHINGTON, *September 11, 1923.*

SIR: I am instructed by Count Yamamoto, His Majesty's Minister of State for Foreign Affairs, to convey to the American Red Cross most sincere thanks of the Japanese Government for the initial gift

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[26] Not printed.

of one hundred thousand dollars and for its continued endeavors in raising the relief funds throughout the entire country of the United States, as well as for every other possible aid that it is rendering to the relief and rehabilitation work of afflicted Japan. These prompt, generous and effective measures of assistance taken by the American Red Cross are very deeply appreciated by the whole nation of Japan.

I have the honor to request you to be so good as to cause the above expression of gratitude of my Government to be transmitted to the American Red Cross.

Accept [etc.] M. HANIHARA

894.48B/67b : Telegram

The Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 11, 1923.*

154. Please inform Count Yamamoto that the President is deeply touched by his generous and friendly message which has been received through the Japanese Ambassador and assure him that the American people desire to testify in every practicable way to their warm sympathy for the people of Japan in this hour of terrible affliction.

HUGHES

894.48B/112

The Chairman of the American Red Cross (Payne) to the Under Secretary of State (Phillips)

WASHINGTON, *September 13, 1923.*

MY DEAR MR. PHILLIPS: In his letter of September 6 [*8*], Mr. Fieser gave you a résumé of the Japanese Disaster relief operations. Today's letter will bring the recital down to date.

From the beginning, we have aimed to coordinate all American Relief effort in fund raising, purchase and shipment of supplies from America, using Japanese agencies for distribution in the disaster areas. This has enabled us to save large sums for personnel and other expenses and to devote all collections to actual relief.

Early in the Campaign for funds, telegrams were sent to strong national organizations requesting assistance and in every case the response was most generous.

Dr. McFarland of the Federated Council of Churches of Christ in America sent a representative to arrange all details of cooperation. The American Legion offered its help. The Jewish Welfare

Board responded by wiring its constituent bodies to get behind the campaign. Dr. Mott, Secretary of the International Y. M. C. A., had his personal representative, Mr. Phelps, confer with this office. The Knights of Columbus not only helped our Chapters but also made a substantial contribution from national funds.

Our second problem was to curb the desire of individual cities, particularly those on the western coast, to gather their own relief funds and to do their own purchasing and shipping. This action threatened at one time to cause a duplication of commodities shipped and to defeat the unity of control asked for in the President's proclamation.

Now, however, practically all American purchasing for Japanese Relief is being handled by our Central Purchasing and Transportation Bureau and its branches throughout the country. These branches have been set up at our request by Chambers of Commerce and are supervised by committees of leading citizens. Our appointee handles finances at these points.

At the instance of President Coolidge all Departments of the Government are cooperating, particularly the Army and Navy, the latter placing its communication service and ships at our disposal. The Shipping Board, too, has made similar disposition of its steamers designating the American Red Cross as the agency to book all relief cargoes leaving the Pacific Coast for Oriental ports.

One striking difficulty has been the lack of information received from Japan. Altho numerous radios were sent to Ambassador Woods, no response came until September 10th when a direct reply was received [27] advising that the Ambassador had followed our request to appoint an American Red Cross Relief Committee in Japan to act as Liaison between the Japanese and the American Red Cross Societies. This radio advised that Admiral Anderson had been appointed chairman of the Committee. Before receipt of this information I had designated John R. Geary, a well known and highly respected business man in Japan as Chairman of the Red Cross Committee in Japan and had so advised Ambassador Woods, it being the desire of the President that this Committee be composed entirely of civilians.

During the first days of the disaster there was a hysterical rush to all oriental chapters to send relief units to Japan. In most part these units were stopped by cables outlining the policy of the American Red Cross to offer relief to Japan only thru gifts of supplies and money to properly authorized Japanese agencies. To provide for cases where units might have been sent from Manila and Shanghai before receipt of our cables, we sent a radio to our Japanese Com-

[27] Not printed.

mittee authorizing the use of or return of all personnel, as the situation required.

To date approximately ten thousand tons of food stuffs consisting of rice, milk, fish and flour, two cargoes of lumber and shelter supplies, two hundred thousand suits underwear, three hundred thousand pairs socks, medical and surgical supplies have been purchased and a large part are now on steamers en route to Japan. The total commitment of funds for supply purchases amounts to about $3,300,000.00. In addition $100,000.00 has been sent to the Japanese Red Cross, $32,000 to Consulates for relief of Americans and an additional credit of $1,000,000.00 has been placed at the disposal of the official Japanese Relief Bureau.

Today the Seattle Chapter has been instructed to send a relief unit to meet the *Jefferson* at Victoria, B. C., the first ship to arrive with American refugees. The same procedure will be followed in similar cases of need.

Reports from Divisions to date indicated that the quotas have been oversubscribed at all points, the actual figures on hand showing total collections of over five million and a half dollars.

Yours sincerely,

PAYNE

894.48B/95 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *September 15, 1923.*
[Received September 20—2:32 a.m.]

58. In accordance with authorization in your 151, September 11,[28] I presented to Count Yamamoto, Prime Minister and Acting Foreign Minister, a draft for $1,000,000 in favor of Earthquake Relief Board. Prime Minister showed deepest emotion and gratitude.

WOODS

894.48B/88 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO [*undated*].
[Received September 17, 1923—5:10 p.m.]

I have been informed by Foreign Office that food emergency has been met. Only problem remaining is question of distribution. This the Japanese with their organizing ability and their ability to recover rapidly from shock desire to handle themselves. It will gratify the

[28] Not printed.

American people to know that the prompt action of Admiral Anderson has had much to do with this. American Navy's assistance thoroughly appreciated by the men in the street as well as by the Japanese Government. I wish to emphasize that in this critical emergency the first assistance from the outside world since the catastrophe was brought by our Asiatic Fleet.

WOODS

894.48B/91 : Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 18, 1923—4 p.m.*

173. Your Numbers 63 and 65, of September 17.[29]

The American Red Cross is entirely satisfied to have you the head of their relief program and to have Brigadier General McCoy acting under you as liaison with the Japanese authorities in the capacity of Director General or otherwise, as you may deem best, it being understood that all purchasing and distribution of supplies are to be made by the Imperial Japanese Bureau, to which the contributions of the American Red Cross are to be turned over.

PHILLIPS

894.48B/107 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO [*undated*].

[Received September 19, 1923—1:15 p.m.]

For information Payne, American Red Cross.

Japanese Cabinet issued following decision:

Japanese Government most gratefully appreciate sympathy and help offered by foreign powers. Accept evidences of good will in accordance with following principles: Gladly accepts foodstuffs and other necessary supplies, but desires be consulted as to needs before further shipments. Gratified for good will manifested by offer of personnel to cooperate and of ships for transportation purposes, but, having necessary institution and personnel, and anticipation confusion from different languages and customs, constrained to decline offer. However, appropriate steps will be taken to facilitate activities foreign relief officers arrived or already en route at date of this order. Upon arrival relief ships Japanese ports, landing of crew and unloading of goods will be effected after inspection as precautionary measures by Japanese authorities.

WOODS

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[29] Neither printed.

894.48B/121a : Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 21, 1923—2 p.m.*

182. The Department's September 17, 5 p.m. to Kobe, which was repeated to you, and the Department's No. 178, September 19, 6 p.m. to you.[30]

For your information there is quoted below a telegram, addressed to the President, received by the Red Cross by reference from the White House, from J. W. Buckley, Vice-President, American Association at Kobe:

"Understand funds being raised United States are being sent Japanese Government, who will use same for relief of Japanese only. Absolutely imperative that 5 percent all funds collected be sent to the International Relief Committee, Kobe, who are assisting thousands of foreigners. Please communicate this to the people of the United States."

The policy of the Red Cross in extending relief is as follows:

"The American Red Cross is extending relief in Japan in two ways: First, through the Japanese Imperial Emergency Relief Bureau for general relief work among all victims of the disaster; Second, special assistance to American citizens to be rendered through the officers of the Department of State."

The above is for your information and for the information of American Consuls and American citizens in general in Japan and should clearly indicate the exact attitude of the Red Cross towards the administration of relief measures.

It is important that you and General McCoy should be kept fully informed of all American relief activities and Consul Dickover and other Consuls concerned should be instructed to see that all requests for aid either to the Department or to the Imperial Japanese Relief Bureau should be communicated either to you or through you. The Department and the Red Cross desire that this work be concentrated, as far as it is physically possible so to do, under yours and General McCoy's control in liaison with the Imperial Japanese Relief Bureau. In order to do this, therefore, all requests for aid should be passed upon by you and General McCoy.

PHILLIPS

[30] Neither printed.

894.48B/226

The Ambassador in Japan (Woods) to the Secretary of State

No. 14–E TOKYO, *September 22, 1923.*
[Received October 25.]

SIR: I have the honor to report that the Asiatic Fleet sailed from Yokohama Bay yesterday. It arrived at the psychological time and it left at the psychological time insofar as the necessities and sentiment of the Japanese are concerned.

It brought the first relief to the earthquake and fire victims of Japan, and the promptness with which it came and the efficiency with which it met the emergency on its arrival here not only made a great impression on the Japanese but was an inspiration to them to meet the emergency with like promptness and like efficiency.

I am firmly convinced that the situation could not have been handled better than Admiral Anderson handled it. He not only brought the identical supplies which were needed but he saw to it that they went to the proper place. He did it all with great decision and tact and when his work was done he did not overstay his welcome but he sailed away leaving the Japanese regretting his departure. His action reflected credit upon our Navy and upon our Government and made a deep impression upon Japanese sentiment.

I feel that it is due Admiral Anderson that the Secretary of the Navy should be advised of the excellent work he has done in this great emergency, and I shall be glad if the Department will forward a copy of this despatch to him.

I have [etc.] CYRUS E. WOODS

894.48B/123a : Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *September 22, 1923—6 p.m.*

185. Following from Red Cross.

"No. 13. Answering your 75.[31] Amcross contemplates relief in Japan under two heads.

First: Relief for American citizens to be extended through the representatives of the State Department acting in their official capacities. Expenditures for this purpose will be made from official funds and Amcross will reimburse State Department in Washington.

Second: As representatives of Amcross you and General McCoy be expected to ascertain from Japanese their needs, transmit such information to us and turn over to Japanese Bureau money and supplies as they arrive there.

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[31] Not printed.

Your 75 not clear. We do not understand request for million dollar reserve. It is our hope that turning over of supplies and cash to Japanese Bureau can be accomplished by your regular staff without setting up secretariat as Amcross has given assurances that employment American personnel not be necessary in this operation. Payne. Amcross."

PHILLIPS

894.48B/200

The Ambassador in Japan (Woods) to the Secretary of State

No. 10–E TOKYO, *September 24, 1923.*
[Received October 16.]

SIR: I have the honor to report that my time has been so occupied since the earthquake disaster of September 1st as to prevent me making an earlier detailed report. I now have the honor to advise the Department as follows:

Tokyo was just closing its offices for the Saturday week end when one of the greatest calamities of the world fell upon this section of Japan. The great earthquake of September 1st came at 11:58 A.M. It began with a slight tremor, but rapidly gained in force and continued for fully five minutes. There was a great grinding roar, and the crash of many falling buildings filled the air, while the dust that rose was like a pall over the city. The whole afternoon was one of terror. Shock after shock came, with fires breaking out in every direction, while the streets were filled with a seething mass of humanity just escaped from death by the earthquake and once more fleeing for their lives as the flames drove them on. The water mains were broken by the first shock, and a high wind was blowing so that the fires spread with great rapidity. They were soon beyond control.

The Embassy buildings and chancery were so badly wrecked by the first shock as to make it exceedingly dangerous for anyone to be in them. The side wall of my private office fell just after I left the room and there was danger of the entire building collapsing in any one of the shocks which were continuing to come. The occupants had already narrowly escaped death, and I deemed it advisable not to ask them to again enter the buildings for the purpose of removing the furnishings. When the fire came later the buildings and their entire contents were therefore totally destroyed, except articles contained in the vault.

The Department may be interested to learn that even at the date of this despatch the shocks are continuing, although of no great violence.

Immediately following the terrible night of earthquake and fire, I endeavored to get into communication by telegraph with our people in the world outside and to ascertain whether our American colony in Tokyo was safe. No word of the destruction elsewhere had reached us. I soon learned that the cable service, telegraph and commercial wireless had all ceased to function, but finally the Minister of Marine was persuaded to send three short messages for me by radio from their Japanese naval vessels. These messages were first, to the Admiral of our Asiatic fleet, requesting him to come here at once bringing emergency food supplies; second, to Governor General Wood at Manila, requesting him to send food and medical supplies by fast boat; third, to the Department of State, advising it that I believed all Americans were safe and urging the sending of supplies from Manila.

As a result of these telegrams, the first relief to arrive was American. After sending the telegrams I called upon the Premier; advised him of my action, and told him that the American people wanted the privilege of helping Japan in this great calamity. He was deeply moved by my offer. It was the first made on behalf of any foreign government.

The following day, viz, September 3rd, I appointed Colonel Burnett, Military Attaché of this Embassy, to take charge of all relief work. He at once perfected an organization, and handled the situation with such efficiency, tact and determination as to make it impossible for me to express in words my admiration for his accomplishment. I am enclosing herewith a copy of his report,[32] which should be read in connection with this despatch. I shall also advise the Secretary of War of the services rendered by him. I earnestly trust that the War Department will recognize in some tangible way the distinguished service this officer has rendered.

Immediately after the earthquake, practically all the Chiefs of Diplomatic Missions, who were in Tokyo, as well as their attachés, left the city. I take great pride in reporting that every member of our Embassy staff who was in the city and every Embassy clerk not only remained at his post but reported promptly to me for duty and not a man among them even thought of going away. As for those who were out of the city, only one failed to return promptly . . .

Mr. Wilson and Lieutenant Hulings were also at Chuzenji, but they even walked a considerable distance in order that they might report promptly for duty. Mr. Gray was at Karuizawa and he too hastened to report. Mr. Caldwell was in the chancery at the time of the disaster and rendered valuable service.

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[32] Not printed.

The Assistant Military and Assistant Naval Attachés, who were not in Tokyo at the time . . . hastened to report to me for duty, and in order to do this every man had to endure hardship, because the ordinary means of transportation had ceased to function. My heart thrills with pride at the loyalty and stamina and efficiency of our Embassy staff in this emergency. While their colleagues in the foreign service were leaving Tokyo in order to escape possible danger and service, these men were either remaining at their post or hastening to it, in order to render service. The American Embassy did not cease to function at any time during or since the disaster, and it is the only Diplomatic Mission here which has so functioned.

It was necessary that a clearly defined policy be adopted in relation to our relief activities. I felt that we had a great opportunity to break down the suspicion and antagonism against the United States existing in the minds of many Japanese, and it was with that thought constantly in mind that I have acted.

I discussed the matter of relief frankly with the Minister for Foreign Affairs, and in order to avoid the friction which was sure to follow the sending here of relief workers, who were not familiar with the Japanese psychology, I suggested that the supplies furnished by us, except for our own nationals, be delivered to the Japanese authorities at the wharf for distribution by the Japanese Relief Bureau. The Minister for Foreign Affairs was greatly pleased at this suggestion, and it was later announced as the policy of the Japanese Government applicable to all foreign relief. I have also impressed upon the Japanese Government the fact that the American people wanted to furnish relief in the manner desired by the Japanese; that the wishes of the Japanese were to govern our activities.

Admiral Anderson and General McCoy, immediately upon their arrival, heartily concurred in this policy, and later it was promptly accepted by the American Red Cross. We have therefore had complete unity of action and perfect team work between the Army, the Navy, the Red Cross, and this Embassy.

Conclusion

The promptness and decision with which this emergency has been met by our people has made a deep impression upon both the Japanese Government and the Japanese people. In addition, they are not only sincerely grateful, but they look upon our help as an evidence of our friendship. The old suspicion and antagonism is broken down. Everywhere I go I hear the opinion expressed that our countries at last understand each other, and that we are united in ties of

friendship, more strongly than any paper treaty could possibly establish.

I believe these expressions are sincere, and that if we are able to complete our relief work in the same spirit with which it has been carried on up to this point, that we have gone a long way towards securing the lasting friendship of Japan.

I have [etc.] CYRUS E. WOODS

894.48B/160a

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *September 29, 1923.*

EXCELLENCY: On September 3, while the early reports were still being received indicating the enormity of the earthquake disaster which had stricken your country and the Japanese people, you were so good as to express a willingness to accept, at the suggestion of the Acting Secretary of State, on behalf of your Government and the Japanese people, such emergency aid as the Government of the United States and American relief agencies might be in a position to render in the circumstances. It seemed clear that the most effective relief would be that which could be made available with the least possible delay, and accordingly the appropriate authorities of the Government, by direction of the President, hastened to place at the disposal of the Japanese Government such emergency measures of Government relief as were available in the absence of special legislative authority.

Knowing, however, that the hearts of the American people had been profoundly stirred by the overwhelming catastrophe, the President issued an appeal for public subscriptions to a relief fund to be collected through the American Red Cross. The response to this appeal was spontaneous and widespread. It clearly expressed the warm-hearted desire on the part of the American people to participate in relieving the distress and suffering which had fallen upon Your Excellency's country, and it afforded an opportunity to the people of the United States to evidence their friendly and sympathetic feeling for the people of Japan, whose courage and fortitude have again been strikingly demonstrated. The quick response to the appeal made it possible for the Red Cross to place at the disposal of the Imperial Japanese Relief Bureau foodstuffs, medical and other supplies, as well as substantial money contributions for such use as the Bureau deemed advisable.

While it is understood that the Japanese Government feels that the emergency has now been temporarily met so far as food supplies and relief personnel are concerned, I beg of you to let me know should further aid of this character be desired by your Govern-

ment; and if there are needs in other directions which are not now being satisfied, and which this Government may be in position to supply, I shall be happy to be so advised.

I desire, in this connection, to avail myself of this opportunity to express to the Japanese Government, through you, the thanks of the Government of the United States for the solicitude with which your Government looked after the welfare of American citizens in the earthquake zone and for the relief and protection extended to them. This Government likewise appreciates the facilities afforded American Diplomatic and Consular Officers in Japan in carrying on their work under the trying circumstances, and it is not unmindful of the debt of gratitude which it owes to the members of the Imperial family who tendered places of abode for the American Ambassador and his family, and to others who gave similar assistance to Americans then resident in Tokyo.

Accept [etc.] CHARLES E. HUGHES

894.48B/163 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO [*undated*].
[Received October 3, 1923—8:55 p.m.]

105. For American Red Cross:

"For your information the following résumé of Government activities since disaster and our relation thereto. Cataclysm which so devastated four provinces including the capital as to render 2,000,000 persons partially or entirely destitute created dangerous conditions for entire nation. New Cabinet began its functions the day of disaster and met situation by promulgation following Imperial ordinances, so promptly and effectively enforced no serious results occurred. (*a*) Martial law, four Army divisions disposed at important points. This made it possible to begin reconstruction immediately. Engineer corps blasting, restoring telephone, telegraph service, removing débris, building bridges. (*b*) Immediate appropriation twelve and one half million dollars for relief. (*c*) Ordinance against profiteering obeyed with loyalty by people who have a pride in it. Prices Tokio now lower outside. (*d*) Against creating or circulating false information, this strictly enforced. (*e*) To buy abroad and sell articles [garbled group] to resell to public at cost. Purchases through foreign firms transportation assigned to five Japanese companies. (*f*) Moratorium 30 days now lifted. Nippon Bank announces acceptance stocks, bonds as collateral up to $50,000,000 guaranteed against loss by Government. (*g*) Relief Bureau. (*h*) Established organization of institute for reconstruction of capi-

tal with force of experts as advisers. Outstanding features admirable efficiency Army-Navy; loyalty, obedience and courage of people; enlistment captains of industry regardless of party under Relief Bureau paralleling America's action in World War. With this bureau aid Japcross–American relief cooperating. Amcross cooperation most effective because of initial and prompt gift of cash enabling Japan purchase [from] nearby countries and of leaving responsibility for distribution in hands of Japanese. Japanese plan to avoid pauperization by selling at cost, a laudable one, and will be supported by people, proceeds will be used to buy more supplies. When all said and done America's contributions will not supply 5 percent of the enormous property loss. Warmest expressions of gratitude in all newspapers and from individuals of all classes for America's effective cooperation."

WOODS

894.48B/198 : Telegram

The Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *October 13, 1923—6 p.m.*

219. Following for you.

"October 13, Number 23. Have purchased all commodities listed your 76 [33] costing about two and half million dollars. Advise Japanese Bureau we have additional $3,000,000 now available for expenditure. Large quantities food, clothing and shelter supplies available here. If wanted cable specific requisition. Payne Amcross."

HUGHES

894.48B/207

The Japanese Ambassador (Hanihara) to the Secretary of State

No. 78 WASHINGTON, *October 18, 1923.*

SIR: Recurring to my response of 4th October [33] to your note of 29th September, I have the honor to inform you that I am now instructed by His Majesty's Minister of State for Foreign Affairs to express to you once more, on behalf of my Government and people, their profound appreciation of the wholehearted and effective aid given to Japan by the Government and people of the United States as well as by their Red Cross and other institutions.

I am instructed also to thank you sincerely for your most sympathetic offer of still further assistance that may be desired by my Government, and to inform you that, in so far as the emergency relief personnel and supplies are concerned, the needs of the moment are now being happily met, thanks to the prompt and practical

[33] Not printed.

generosity of America and other countries, and therefore that my Government wish to make no further call upon your kindness in these respects.

As regards the assistance that may be needed by my Government in the prosecution of the reconstruction work, they hope they may count upon the good will of the United States Government in so far as such assistance is within its power to give.

In sending you this communication, I avail myself [etc.]

M. HANIHARA

894.48B/237

The Japanese Ambassador (Hanihara) to the Secretary of State

No. 84 WASHINGTON, *October 30, 1923.*

SIR: When the first news of the recent dreadful event in Japan was flashed abroad, Admiral Anderson at once dispatched to the scene of the disaster the ships under his command with all available equipment to meet the emergency. In the face of indescribable confusion and difficulties, the Admiral, as well as the officers and men under him, with unflagging zeal and efficiency, set themselves to the task of carrying relief to the countless sufferers both at sea and ashore. It was largely due to their prompt and gallant assistance that the situation was brought well under control in a short time.

At the same time General McCoy hastened to the scene from his Philippine post and as chief of the American relief agencies in Japan, devoted himself with his staff day and night to the performance of his mission, and under very trying circumstances he directed and encouraged the relief corps to such good effect that there were established within ten days American hospital stations in both Tokyo and Yokohama, which he transferred to the Japanese Red Cross.

Both the Admiral and the General, satisfied that their work was done, have lately left my country, leaving behind them a glow of admiration and gratitude that will live for years to come.

I am now instructed by His Majesty's Minister of State for Foreign Affairs to convey to you, and through you to all concerned, the heartfelt thanks of the Japanese Government and people for the splendid services rendered by Admiral Anderson and the naval forces under his command, and by General McCoy and the relief corps under him, which so effectively demonstrated the particular sympathy of the United States Government for the sufferers by the disaster.

I accordingly have the honor to request that you will be so good as to cause this message to be transmitted to the proper quarters.

Accept [etc.] M. HANIHARA

894.48B/237

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *November 3, 1923.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of October 30, 1923, conveying the thanks of the Japanese Government and people for the services rendered by Admiral Anderson and the Naval forces under his command and by Brigadier General McCoy and the relief corps under his direction, in connection with aid rendered by them to sufferers from the recent earthquake and fire in Japan.

I need hardly assure Your Excellency that the authorities under whom Admiral Anderson and General McCoy are serving will be gratified to know that the humane mission upon which the two officers and their colleagues were engaged was administered so satisfactorily to the Japanese Government. For my own part, I fully share in this gratification, and venture the opinion that the spirit in which the Japanese Government and people received the proffered assistance, and their hearty cooperation in the American efforts, contributed largely to whatever success attended the work of the American officials concerned.

I have taken pleasure in furnishing copies of your Excellency's note under acknowledgment to the appropriate authorities of this Government as well as to the American Red Cross.

Accept [etc.] CHARLES E. HUGHES

894.48B/293

The Chargé in Japan (Caffery) to the Secretary of State

No. 56–E TOKYO, *November 6, 1923.*

[Received December 3.]

SIR: As of possible interest to the Department, I have the honor to report that according to estimates made up to October 24, 1923, the cost value, in dollars, of American contributions for Japanese relief is computed at $18,200,000. Of this sum $7,000,000 represents the cost value of stores contributed by the Army; $2,000,000 the value of stores brought by the Navy early in September; $1,100,000, Red Cross contributions in cash; $3,000,000 the value of stores purchased by the Red Cross in the United States up to the 19th of September; $2,500,000 the value of stores purchased on Japan's order subsequent to September 19th; $3,000,000 the amount in cash from the American Red Cross awaiting the disposition of the Japanese authorities; and $100,000 sent by the Japan-America Society of New York to the Japan-America Society of Tokyo.

This estimate does not include the amounts expended for the relief of American citizens and can not, of course, include the sums sent by American organizations to their branches here or the large number of donations sent from individual to individual. It is roughly estimated that this last item amounts to nearly another half a million dollars.

I have [etc.] JEFFERSON CAFFERY

894.48B/263 : Telegram

The Chargé in Japan (Caffery) to the Secretary of State

TOKYO, *November 13, 1923—noon.*
[Received November 14—8:15 a.m.]

171. Upon receipt of the Department's number 219, October 13, 6 p.m., the Japanese bureau was asked if they desired to make additional requisitions for supplies for the amounts mentioned and Viscount Goto informed me they desired requisitions which would be made at once. As no requisition has been made I inquired informally a little later when it could be expected and was informed that in the meantime Hanihara had telegraphed that he had received an intimation that a suggestion from the Japanese Government that balance of Red Cross funds be used for permanent relief memorial would be welcomed at Washington. My opinion in the premises was asked but as I have not received instructions on the subject I have [given no?] reply. Saturday [35] I was informed reliably that Foreign Office had cabled Hanihara acquiescing in the suggestion and stating that a memorial hospital would be suitable. Although I have no knowledge of the source of the suggestion, and while I consider the idea of a memorial a good one, I believe it would be inadvisable to devote all the unexpended balance for this purpose; in fact, it is my opinion that amount should not exceed $1,000,000.

CAFFERY

894.48B/283a : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *November 22, 1923—5 p.m.*

253. Following for you:

"November 20, 1923, Number 32. Your State Department number 172.[36] Amcross desires all funds collected for Japanese disaster to be expended for relief purposes. However, it would approve the expenditure of a sum not to exceed $1,000,000 for the erection of a hospital by the Japanese Emergency Relief Bureau or some other

[35] November 10.
[36] Not printed.

official organization to care for the continuing needs growing out of the disaster provided an adequate sum of money remained for this purpose after all necessary requisitions for supplies or cash had been filled. It has never been our thought that the entire balance of four and one half million dollars now on hand should be used for any projected building. We earnestly hope the Japanese officials will soon indicate what disposition of relief funds is desired. Please advise Ramsay to compile a report on plans and methods of Japanese relief work particularly with reference to the emergency and rehabilitation periods. This report should be a distinct contribution to material already compiled on disaster relief work. Fieser AmCross."

Red Cross states that the above message is not modified in any way by reason of your No. 174 of November 20, noon,[36a] the substance of which has been communicated to the Red Cross for its confidential information.

HUGHES

894.48B/284b

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, *November 24, 1923.*

EXCELLENCY: I have the honor to address Your Excellency concerning the aid extended to American citizens by the captain of the Messageries Maritimes Steamer *André Lebon* in Yokohama harbor at the moment of the recent disaster which occurred in Japan on Saturday, September 1.

The captain of the steamer received refugees and wounded, sent his boats ashore to aid those who escaped the flames to reach a place of safety and extended to them, when on board, every comfort and courtesy.

I beg that Your Excellency will be kind enough to request the French Government to advise the captain of the *André Lebon* of the high appreciation of this Government for the assistance which the captain rendered to American citizens.

Accept [etc.] CHARLES E. HUGHES

894.48B/284c

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, *November 24, 1923.*

SIR: It is my grateful duty to call to your attention the work performed by Captain S. Robinson, R. N. R., of the Canadian Pacific

[36a] Not printed.

Liner, the *Empress of Australia*, at the moment of the disaster in Japan on Saturday, September 1, in Yokohama harbor.

The *Empress of Australia* had cast off from the pier at the moment of the shock. Recognizing immediately the magnitude of the disaster and the appalling danger which threatened the inhabitants of Yokohama, Captain Robinson immediately tied his ship again to the shattered pier, lowered his boats, and picked up those persons who had been precipitated into the water. He furthermore, during the course of the afternoon and until nightfall, sent repeated expeditions ashore to rescue those who had escaped the flames. His boats were also able to rescue many persons who had thrown themselves into the water from the Bund. This work was performed under the most trying conditions, since a tremendous gale of wind was blowing and in many places the harbor was ablaze with burning oil. The wounded and destitute people on board the *Empress of Australia* were treated with the utmost kindness and consideration and were finally taken to Kobe or Shanghai as they desired.

Since many of these persons to whom Captain Robinson extended such timely aid were American citizens, I beg that you will be kind enough to request the British Government to convey to Captain Robinson on behalf of the United States Government its high appreciation of his seamanship and of the intrepid and humanitarian service rendered by him and his officers and crew during this period.

Accept [etc.] CHARLES E. HUGHES

894.48B/324

The British Chargé (Chilton) to the Secretary of State

No. 1028 WASHINGTON, *November 28, 1923.*

SIR: I have much pleasure in informing you that His Britannic Majesty's Chargé d'Affaires at Tokio, in the course of a despatch addressed to Lord Curzon reporting upon the recent earthquake disaster in Japan, referred in very appreciative terms to the assistance afforded to British subjects by the United States Embassy at Tokio and by the United States Navy, and emphasised the cordial spirit of co-operation between His Majesty's Embassy and the Embassy of the United States during the terrible occurrences which took place at that time. In his despatch Mr. Palairet used the following words in this connection:

". . . The rescue work owes much of its success to the unsparing efforts of the American Embassy and of the American destroyers, who reached Yokohama early on September 5th. The assistance rendered to British subjects by Americans has indeed been so im-

portant that I have felt myself justified in addressing to the United States Ambassador the letter of which a copy is enclosed".[37]

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to convey to the United States Government an expression of the deep gratitude of His Majesty's Government for the help so ungrudgingly given to our fellow countrymen in their distress.

I have [etc.] H. G. CHILTON

894.48B/302a : Telegram

The Acting Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *December 1, 1923—2 p.m.*

262. Following for you from Red Cross:

"Number 34. Without wishing to determine the exact manner in which the balance of Japanese relief funds may be expended we would look with favor on a slight change in our plans as indicated in previous cables if in your judgment such modification would bring about a solution of the present delay. You might therefore indicate to the Japanese that we would approve a three part division of the balance on hand as follows: One and one-half million dollars for the construction of a hospital; the same amount for an endowment of the hospital; and the balance to be expended for relief supplies. The above plan has been informally discussed with Ambassador Hanihara and he will probably communicate it to the Japanese Government. Hanihara was asked to say that he understood that if a program along some such lines as outlined were proposed to American Red Cross it would be looked upon favorably. You should clearly understand that this is not in any way an attempt to dictate a plan for using the relief fund now on hand. American Red Cross does not desire to change arrangement which has worked so well whereby Japanese have suggested how funds shall be used. We do desire action as soon as possible. We appreciate that a hospital with endowment might be welcome when without it might be white elephant. We again emphasise that plan must come from Japan with full approval. Fieser. American Red Cross."

PHILLIPS

894.48B/290 : Telegram

The Chargé in Japan (Caffery) to the Secretary of State

TOKYO, *December 2, 1923—9 a.m.*

[Received 9:35 a.m.]

183. For Red Cross:

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[37] Not printed.

Your telegram number 32.[38] Vice Minister for Foreign Affairs told me informally this morning that yesterday Foreign Office received a telegram from Hanihara stating that after consultation with you he now believes that a proposal by Japanese authorities for following disposition of balance of relief fund would be acceptable to you; one-third of balance to be expended in building a hospital to serve continuing needs growing out of disaster; one-third to be used as endowment for maintenance of this hospital, and one-third to be used immediately for additional emergency supplies. Vice Minister told me informally that this was the manner in which the Japanese authorities really desire you to use unexpended balance of four and one-half million dollars; that owing to present financial straits Japanese Government cannot otherwise provide for maintenance of this hospital which is badly needed to replace losses suffered in the disaster and on account of conditions created by the disaster. He says he is telegraphing this to Hanihara.

CAFFERY

894.48B/310 : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *December 8, 1923—5 p.m.*

268. Following for you:

"December 8, 1923. Number 36. Your number 183.[39] May we soon expect formal request through you from the Japanese authorities for funds for the construction of a hospital and its endowment in the total amount indicated by you for $3,000,000 with the understanding that one-half of that amount will be used in the construction of a hospital and one-half in an endowment for that project? We authorize you to inform the Japanese Emergency Relief Bureau that the American Red Cross will honor such a request and also one for the requisition for supplies as previously indicated. If the hospital plan is adopted should it be carried out by cash grant or otherwise? Fieser, American Red Cross."

HUGHES

894.48B/328

The Japanese Ambassador (Hanihara) to the Secretary of State

No. 101 WASHINGTON, *December 12, 1923.*

SIR: I have the honor to inform you, under instructions from my Government, that following resolutions were passed, on December

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[38] See telegram no. 253, Nov. 22, to the Chargé in Japan, p. 489.

[39] *Supra.*

12th, by the House of Peers and by the House of Representatives in the special session of the Imperial Diet:

"Resolution passed by House of Peers: On receipt of news of the great seismic disaster in this country the sovereigns and peoples of foreign nations accorded us their sincere sympathy and sent here bountiful help which will ever be remembered by our people with a feeling of deep thankfulness. It is therefore resolved that the House of Peers expresses its profound gratitude to foreign nations.

"Resolution passed by the House of Representatives: It is resolved that the House of Representatives shall express its thanks for the deep sympathy extended to this country by foreign countries on the occasion of the unprecedented seismic disaster."

Accept [etc.] M. HANIHARA

894.48B/314 : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *December 13, 1923—6 p.m.*

272. Your 191, December 12, 6 p.m.,[40] indicates that Japanese believe Red Cross proposes to retain control of hospital endowment fund. This is of course not the case. The intention is that the fund should be turned over to the Japanese Red Cross or other suitable Japanese agency for administration as a permanent endowment for the hospital.

Red Cross wishes it made clear for your information and guidance that while not wishing to create embarrassment by pressing for a decision they consider it important that there should be no undue delay in making disposition of funds contributed by American people for the relief of emergency.

HUGHES

894.48B/345

The Chargé in Japan (Caffery) to the Secretary of State

No. 141–E TOKYO, *December 17, 1923.*

[Received January 7, 1924.]

SIR: With reference to my despatch No. 132–E of December 14, 1923,[40] regarding the recent earthquake disaster, I have the honor to report that the Home Office now announces that the number of houses directly destroyed by the earthquake in the devastated area was 134,963, while the number of houses destroyed by fire in that

[40] Not printed.

region was 444,576. At the same time, 794 houses were destroyed by landslides and tidal waves.

The number killed in the entire area was 144,720; injured, 102,409; missing, 50,601.

Of the killed in Tokyo, 33,000 (19,566 men, 24,425 women) were above 50 years of age; 28,364 (21,300 men, 7,064 women), between 30 and 40 years; 30,616, between 3 and 10 years; and 8,020, of unknown age.

The figures for the injured in Tokyo are also interesting, showing that 18,253 (8,200 boys, 10,058 girls) were between 5 and 10 years; and over 20,047 (13,854 men, 7,893 women) were above 50 years.

I have [etc.] JEFFERSON CAFFERY

894.48B/326 : Telegram

The Chargé in Japan (Caffery) to the Secretary of State

TOKYO, *December 19, 1923—8 p.m.*
[Received December 19—11:40 a.m.]

197. Department's telegram no. 272, December 13, 5 [*6*] p.m. Request of Japanese authorities: Vice Minister of Foreign Affairs communication to me this afternoon orally definite request of Japanese authorities that $3,000,000 of balance be used as follows: One and a half million for the construction of a hospital as hitherto discussed, and one and a half million for hospital endowment. He stated also that they would like to ask that the remaining one and a half million be turned over to Japanese Emergency Relief Bureau to be spent here in Japan for "direct social service work among the destitute refugee population."

I have inquired what was meant by social service work and was told furnishing Japanese clothing and food direct to refugees and especially to those in the so-called slum quarters in Tokyo. He added that the Japanese authorities frankly considered food and clothing bought here more suitable in these cases than supplies sent from America.

He said that if these proposals are accepted by the American Red Cross, Japanese authorities will be glad to designate the proper organizations to receive the amounts involved in cash.

As I have reported on that hitherto it has been my impression for some time that the Japanese authorities did not desire to request further supplies from the United States, and this afternoon the Vice Minister very frankly stated that the Japanese authorities felt that they did not need additional emergency relief supplies from

America. Since writing the above Mr. Phelps of the Y.M.C.A. has come in and tells me that it is his opinion that there is no need growing out of the disaster more urgent than that of social service work among the refugee slum population here in Tokyo and that the need for this special work is in fact a pressing one.

CAFFERY

894.48B/363

The Chargé in Japan (Caffery) to the Secretary of State

No. 157–E TOKYO, *December 24, 1923.*

[Received January 18, 1924.]

SIR: I have the honor to report that I am transmitting in the pouch a book containing signatures which have been collected by the students of Tokyo from all classes of the Japanese population. These signatures are attached to a Letter of Thanks,[42] which is meant to express the gratitude of the Japanese people for the sympathy shown them by the people of the United States on the occasion of the recent earthquake disaster. The book was handed to me by a committee representing the students of Tokyo who stated that the roll had been signed by about a half million people.

I have [etc.] JEFFERSON CAFFERY

894.48 B/333 : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

[Extract—Paraphrase]

WASHINGTON, *December 29, 1923—12 noon.*

282. The following message to you is from the Red Cross:

39, December 26, 1923. The American Red Cross is highly pleased to take affirmative action with respect to the suggestion by the Japanese authorities regarding the use of the balance of the Red Cross funds. You are therefore given authority to draw upon the Secretary of State for the sum of $1,500,000 to be donated to the Japanese Emergency Relief Bureau for direct social service work for the destitute refugee population. When the Japanese authorities have indicated through what agency the hospital project, which has been previously discussed, is to be developed, a further payment of $3,000,000 will be made for the construction and endowment of the hospital. . . . Fieser. Amcross.

HUGHES

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[42] Not printed.

894.48B/356

American National Red Cross Japanese Relief Fund Receipts, Expenditures, and Commitments, January 2, 1924 [43]

RECEIPTS

Collections in Hands of National Organization	$11,401,110.98
From American Red Cross Disaster Relief Reserve	132,500.00
Total Receipts	$11,533,610.98

EXPENDITURES AND COMMITMENTS

1. Expended:		
Donations to Japanese Relief Agencies	$1,156,594.78	
Donations for Assistance to Americans in Japan	182,500.00	
Donation to cover emergency expenditures in the first few days of the disaster	25,000.00	
Purchase of Rice	968,489.69	
Purchase of Other Food Supplies	286,448.42	
Purchase of Medical and Hospital Supplies	173,488.20	
Purchase of Blankets	512,150.00	
Purchase of Cotton and Flannels	200,463.01	
Purchase of Clothing	2,388,913.43	
Purchase of Building Materials	323,976.06	
Purchase of Other Supplies	67,988.32	
Purchases for Chapter Production	19,891.99	
Transportation on Supplies (including insurance)	270,720.76	
Refugee Relief Operations in the U. S	2,698.33	
General Expenses of Red Cross Representatives in Far East	831.25	
Miscellaneous Expenses in U. S	26,292.34	$6,606,446.58

[43] Transmitted to the Department by the American Red Cross in a letter dated Jan. 4, 1924.

2. Cash Advanced (to be accounted for):	$89,949.79
3. Unpaid Miscellaneous Commitments	7,000.00
4. Draft (unpresented) for Relief Work by Japanese Imperial Relief Bureau	1,500,000.00
5. Hospital Commitments	3,000,000.00
Total Expenditures and Commitments	$11,203,396.37
AVAILABLE BALANCE	$330,214.61

894.48B/394 : Telegram

The Secretary of State to the Ambassador in Japan (Woods)

WASHINGTON, *March 8, 1924—1 p.m.*

36. Your telegram No. 39, February 23, 3 p.m.[44] Conversations with Bishop McKim[45] tend to confirm the impression that the Japanese Government and people are under the misapprehension that the proposal for an American memorial hospital was a recommendation which the Japanese Government felt it could not decline without offense to the American donors and to this Government. If any such misapprehension does exist, you may in your discretion explain that, so far as concerns the American Government, it had nothing whatever to do with the proposal.

In the effort to make this clear Judge Payne, Chairman of the Red Cross, has telegraphed Blake that "the only desire of the Red Cross is that the Japanese use the fund as they deem best." He has also conveyed informally to the Japanese Ambassador an expression of his feeling that the question of building and endowing a memorial hospital rests wholly with the Japanese authorities, and has asked him so to advise his Government.

HUGHES

894.48B/420 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *March 11, 1924—5 p.m.*

[Received 5:31 p.m.]

48. I took up the matter of Department's 36, March 8, 1 p.m. with the Minister for Foreign Affairs who said at once that he was entirely unable to understand how the American Government had ob-

[44] Not printed.

[45] Protestant Episcopal Bishop of Tokyo.

tained the impression mentioned because it had always been distinctly understood that the request to use the balance of the Red Cross funds to construct a memorial hospital had been made by the Japanese authorities although before making it they ascertained through Hanihara that the American Red Cross would not be averse to the suggestion.

He added that they have never had the impression that the recommendation came from American Government and he affirmed that the Japanese authorities did desire to construct this hospital and in fact did not wish to spend the money in any other fashion; that the Japanese Government would not care to undertake the plan which had been recently proposed in some circles of dividing up the funds among a number of existing hospitals; that any other manner of spending the money would open the door to jealousies and greed.

. . . . . .

It is my personal opinion that any change in the plans of the Red Cross at this late date would have an unfortunate effect on the even trend of the relations now existing between the two countries.

WOODS

894.48B/425 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

TOKYO, *March 13, 1924—5 p.m.*
[Received March 13—11:44 a.m.]

49. Department's 38, March 11, 2 p.m.[46] For Red Cross:

"I handed Japanese Minister for Foreign Affairs today draft on American Red Cross for $3,000,000 as cash donation to committee having in charge erection and endowment memorial hospital.

Baron Matsui requested that I transmit his personal appreciation as well as that of the Japanese Government and people."

WOODS

894.48B/456

The Ambassador in Japan (Woods) to the Secretary of State

No. 404–E TOKYO, *April 2, 1924.*
[Received April 22.]

SIR: With further reference to the matter of the construction of an American Memorial Hospital in Tokyo, and with special reference to my telegram No. 49, dated March 13th, 5 p.m., on the subject, I have the honor to transmit herewith copies of a Note from the

[46] Not printed.

Japanese Minister for Foreign Affairs acknowledging the receipt of the draft for $3,000,000, to be used for the construction and maintenance of the Hospital.

In that connection Baron Matsui [47] stated:

"I venture to state that, from the point of view of humanity, it gives me unbounded pleasure to note that the establishment of the proposed hospital will not only make a great contribution towards the relief of unfortunate patients whose difficulties have considerably increased since the earthquake disaster, but that it will enable the general public to enjoy immense benefits for a long time to come. Furthermore, it will go a long way towards promoting friendship between our two countries by permanently commemorating American sympathy towards Japanese. On behalf of the Japanese Government, I beg leave to express sincere thanks to the Government and people of your country as well as to the United States Red Cross for their sympathy and goodwill as manifested in the present matter. I must also take this opportunity to tender my profound thanks to Your Excellency for the earnest efforts which you have been so good as to exercise from the outset in connection therewith."

I am also transmitting copy of the receipt [48] from the Minister for Home Affairs who is Chairman of the Committee on the Establishment of an American Memorial Hospital.

I have [etc.] CYRUS E. WOODS

894.48B/457

The Japanese Ambassador (Hanihara) to the Secretary of State

No. 44 WASHINGTON, *May 2, 1924.*

SIR: I have the honor to inform you that I have just received from my Government three volumes containing a selection of nine hundred letters, written in English, by students of High Schools, Colleges and Universities in Japan, in order to express their heartfelt thanks for the prompt, generous and effective relief action taken by the American people at the time of the great earthquake in 1923. In accordance with the earnest request of a delegation representing these students, my Government instructed me to take such steps as may be permissible so that the volumes may be presented to the President of the United States of America.

I therefore take the liberty of forwarding these volumes to you, with the request that you will be, if agreeable, so good as to have them transmitted to the desired destination.

Accept [etc.] M. HANIHARA

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[47] Japanese Minister for Foreign Affairs, Jan. to June 1924.
[48] Not printed.

894.48B/467

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *May 8, 1924.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 44 dated May 2, 1924, forwarding, under separate cover, for transmission to the President, three volumes containing a selection of certain letters written by various Japanese students in appreciation of American relief at the time of the great earthquake, and to inform you that I have forwarded these volumes to the President.

I take pleasure in expressing to you, on behalf of the President, sincere appreciation of the feeling which dictated the expressions of gratitude contained in these letters.

Accept [etc.] CHARLES E. HUGHES

894.48B/485 : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *July 3, 1924—6 p.m.*

112. In sending for transmission through you to the appropriate Japanese authorities the message quoted below, American National Red Cross suggests that it might not be opportune to make this communication at the present moment. If in your judgment that is the case, you may withhold the message, so advising the Department.

"The American Red Cross on July 1, 1924, had an unexpended balance in its Japanese earthquake relief fund amounting to $464,-992.64. This balance is wholly at the disposition of the Japanese authorities, and the Red Cross is awaiting instructions indicating their wishes."

HUGHES

894.48B/498

The Chargé in Japan (Caffery) to the Secretary of State

No. 693–E KARUIZAWA, *September 5, 1924.*

[Received September 23.]

SIR: With reference to previous reports on the subject of loss of life and property in the great earthquake of September 1st, 1923, I have the honor to report that the Social Bureau of the Home Office now announces that the number of families in the devastated regions which suffered "heavy damage" was 684,409, while the number of people killed or seriously injured was 160,000.

According to the Bureau, more damage was caused by the fire following the earthquake than by the earthquake, as will be seen in the following table:

AFFLICTED FAMILIES

Buildings	*No. of Families*
Entirely burned	381,090
Partly burned	517
Totally crushed	73,607
Partly crushed	91,233
Washed away by tidal waves	1,390
Damaged	136,572
Total	684,409

Another table furnished by the Social Bureau gives the percentage of afflicted families in relation to the total number of families as follows:

PERCENTAGES OF LOSS

Districts	*Percentage of Afflicted Families*
Tokyo City	77.91
Tokyo Prefecture	49.70
Yokohama City	94.03
Kanagawa Prefecture	85.72

The number of deaths, missing and injured is given as follows:

Killed	91,344
Missing	13,275
Severely injured	16,514
Injured	35,560

The total number of deaths, 91,344, includes 43,299 men and 48,045 women.

These figures are, of course, open to question and the consensus of opinion in the vernacular press seems to be that they are rather too conservative.

I have [etc.] JEFFERSON CAFFERY

894.48B/502 : Telegram

The Chargé in Japan (Caffery) to the Secretary of State

TOKYO, *September 29, 1924—noon.*
[Received September 29—8:35 a.m.]

247. My telegram no. 228, September 11, 5 p.m.[49] I have received a note from the Minister of Foreign Affairs stating that the Japanese

[49] Not printed.

authorities have come to a decision in this matter.[50] The note reads in part as follows:

"It has been decided to transfer the greater portion of these balances to fund of the memorial fraternity hospital foundation with the object of establishing another memorial hospital in Yokohama where the consequences of the earthquake disaster were most seriously felt. It has also been decided the remainder amounting to some yen 100,000 shall be used for the purpose of building a memorial seamen's home in that port."

CAFFERY

894.48B/505 : Telegram

The Secretary of State to the Chargé in Japan (Caffery)

WASHINGTON, *October 22, 1924—5 p.m.*

172. Your 247, September 29, noon.

Red Cross has deposited with the Department $466,140.88 for which you may draw a draft the proceeds of which you may turn over to the appropriate Japanese authorities.

HUGHES

UNFAVORABLE ATTITUDE OF THE DEPARTMENT OF STATE TOWARD AMERICAN LOANS TO FOREIGN ENTERPRISES COMPETING WITH AMERICAN ENTERPRISES IN THIRD COUNTRIES[51]

894.51 Or 4/2

Memorandum by the Economic Adviser of the Department of State (Young)[52]

[WASHINGTON,] *December 16, 1922.*

Proposed statement to be made to representatives of the National City Company regarding the proposed loan of $20,000,000 to the Oriental Development Company.

The Department of State has given careful consideration to the proposal that bonds of the Oriental Development Company of Tokio should be floated in the United States for the purpose of financing development work in which this company is interested in regions outside of Japan, namely, in the South Sea Islands, Singapore, Straits Settlements, Manchuria and Mongolia.

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[50] Disposition of unexpended balance of American Red Cross Japanese earthquake relief fund; see telegram no. 112, July 3, to the Chargé in Japan, p. 501.

[51] For previous correspondence on U. S. attitude toward the flotation of foreign loans, see *Foreign Relations*, 1922, vol. I, pp. 556 ff.

[52] Notation on margin: "Approved by the Sec. and read to Messrs. Ailes and Roberts of Riggs Bank, agents of Nat. City Co., Dec. 16, 3 p.m. by Mr. MacMurray and me. A. N. Y[oung]."

In other connections the attention of the Department has been drawn from time to time to instances in which the proceeds of foreign loans floated in the United States have been utilized in third countries with the effect of promoting the activities of competitors of American enterprises. It has been suggested that the employment of American funds in this manner is prejudicial to American enterprises that have invested their capital and are employing their energies in operations in foreign countries and that besides it tends to restrict opportunities for the further investment of American capital.

This Department could only regret the employment of funds derived from loans floated in the United States in such manner as to prejudice legitimate American enterprises in parts of the world other than the country which (or whose nationals) may borrow in the United States, and accordingly feels that it should scrutinize as carefully as possible loan projects laid before it that may present such a situation.

In view of the foregoing, and after careful consideration, the Department regrets that it is unable to view with favor the loan in question.

894.51 Or 4/23

The President of the Riggs National Bank (Milton E. Ailes) to the Economic Adviser of the Department of State (Young)

WASHINGTON, *February 17, 1923.*

DEAR DR. YOUNG: Referring to my conversation with you yesterday, I enclose herewith copy of letter I have just received from Mr. Victor Schoepperle, Assistant Vice President of the National City Company, New York, giving further information touching the question of the use of the proceeds of the proposed loan to the Oriental Development Company.

Very truly yours,

MILTON E. AILES

[Enclosure]

The Assistant Vice President of the National City Company, New York (Victor Schoepperle) to the President of the Riggs National Bank (Milton E. Ailes)

NEW YORK, *February 16, 1923.*

DEAR MR. AILES: With reference to your inquiry as to the use of the proceeds of the proposed Oriental Development Company loan, we are pleased to submit the following:

Our representative at Tokyo, having received a written statement from the officials of the Company based on the sanction of the Minister of Finance that the proceeds will be spent in Japan and its colo-

nies, has presumably not been advised as to the exact application of the proceeds. The Oriental Development Company was, of course, formed for the specific purpose of developing Korea (which is part of Japan proper), particularly along agricultural lines. Therefore, in view of the Government guarantee and the sanction of the Finance Minister authorizing the statement made by the Oriental Development Company that the proceeds will be spent exclusively in Japan, we can hardly believe that the Government would permit the use of the proceeds for any but productive purposes, and we cannot believe that the Oriental Development Company would use the funds for any purposes other than those above referred to.

The Japanese interests who have approached us on this matter are of foremost importance in Japan and, needless to say, we feel that they will appreciate the serious consideration which the State Department is giving this matter, particularly in view of the position taken by the Japanese Government, in sanctioning negotiations in the American market.

Very truly yours,

VICTOR SCHOEPPERLE

894.51 Or 4/23

The Secretary of State to the President of the Riggs National Bank (Milton E. Ailes)

WASHINGTON, *February 23, 1923.*

SIR: Reference is made to your letters of February 16 [53] and 17, 1923, with enclosures, in regard to the proposed loan to the Oriental Development Company, and to other correspondence and conferences with the officers of this Department on the same subject.

I note that it is proposed to issue a loan, not to exceed $20,000,000, that the proceeds will be spent in Japan and its colonies, rather than as originally suggested in Manchuria, Mongolia, the South Sea Islands, Singapore, and the Straits Settlements. I note further the statement in Mr. Schoepperle's letter of February 16, that although the National City Company is not advised as to the exact application of the proceeds, it believes, in view of the fact that the Oriental Development Company was formed for the purpose of developing Korea, particularly along agricultural lines, and further in view of the guarantee and sanction of the Japanese Government, that the proceeds will be used for productive purposes. With respect to the specific purposes to which the proceeds of the loan are to be devoted, I have also noted the statement in Mr. Schoepperle's telegram to you dated February 23, 1923,[53] that about 15,000,000 yen

[53] Not printed.

will be used for redemption of debentures, about 10,000,000 to retire bank loans, and the balance for development purposes in Chosen.

In reply to your inquiry in your letter of February 16 as to the attitude of the Department of State in the matter, I beg to say that this Department, in the light of the information at hand, offers no objection to the financing in question.

I am [etc.]

For the Secretary of State:
LELAND HARRISON
Assistant Secretary

894.51 Or 4/25

The Assistant Secretary of the Treasury (Moss) to the Secretary of State

WASHINGTON, *March 5, 1923.*

SIR: For the Secretary, I have the honor to acknowledge the receipt of letter of Assistant Secretary Harrison (EA–894.51 Or 4) of March 2, 1923,[54] with reference to the proposed loan to the Oriental Development Company of Tokyo, which loan is to be guaranteed by the Japanese Government.

It is noted that the Department of State has informed the National City Company that, in the light of the information at hand, it offers no objection to this financing.

In confirmation of telephone advices, the Treasury desires to state that it perceives no objection to the proposed financing.

Respectfully,

McKENZIE MOSS

894.51 Or 4/26

The Assistant to the Secretary of Commerce (Herter) to the Second Assistant Secretary of State (Harrison)

WASHINGTON, *March 6, 1923.*

MY DEAR MR. HARRISON: I beg to acknowledge receipt of your letter of March 2, 1923, EA 894.510 24,[55] in regard to a proposed loan to the Oriental Development Company of Tokyo.

In reply I am glad to confirm the previous telephone advices from this Department, to the effect that it offers no objection to the loan in question.

Sincerely yours,

CHRISTIAN A. HERTER

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[54] Not printed.
[55] Not printed; the file no. should be 894.51 Or 4/24a.

894.51 Or 4/27 : Telegram

The Chargé in Japan (Wilson) to the Secretary of State

[Extract—Paraphrase]

TOKYO, *March 26, 1923—3 p. m.*
[Received March 26—9:18 a.m.]

29. . . . Farnham as agent for the National City Company on March 24 signed a contract with the Oriental Development Company for a loan of $19,900,000, which is the equivalent of 40,000,000 yen. . . .

WILSON

893.51/4265

The Second Assistant Secretary of State (Harrison) to the President of the Riggs National Bank (Milton E. Ailes)

WASHINGTON, *May 23, 1923.*

MY DEAR MR. AILES: The Department is in receipt of your letter of April 23, 1923,[56] transmitting a letter from Mr. Victor Schoepperle of the National City Company, New York City, of date April 21, 1923,[56] who stated that he had been advised by the Company's representative at Tokio concerning reported negotiations by the South Manchuria Railway Company for a loan, presumably in the British market, and inquiring whether the Department of State would have any objection to dollar financing, assuming that the proceeds of any loan floated in this market would be spent partly in the United States and partly within the sphere of the Company's operations in Manchuria.

Mr. Schoepperle's letter states that the files of the Department will show that in 1919 the financing of the South Manchuria Railway was discussed with Mr. Breckinridge Long[57] and that at that time the Department perceived no objection to the proposition, and Mr. Schoepperle wishes that you take up the question now with this Department with a view to obtaining a preliminary opinion before the National City Company replies to the inquiries which it has received. You ask informally whether it is agreeable to the Department that the National City Company should proceed with negotiations respecting this matter.

With respect to Mr. Schoepperle's reference to discussions of the financing of the South Manchuria Railway in 1919, the records of this Department do not disclose that action was taken definitely com-

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[56] Not printed.
[57] Then Third Assistant Secretary of State.

mitting the Department in favor of that proposal. Subsequent to that time the matter appears to have been dropped, and several years have elapsed.

With reference to the present proposal, I desire to remind you of the explanation given, in connection with discussions of the loan to the Oriental Development Company, of the view held by this Department that, as a matter of general policy, it is not desirable that American credit be made available to foreign interests for investment or enterprises in third countries in cases in which the use of such American credit would tend to prejudice or circumscribe the opportunities for American enterprises or to further the organization of competition therewith.

I regret, therefore, to have to inform you that the Department does not regard with favor the idea of floating in the American market a loan such as that to which you refer.

I am [etc.] LELAND HARRISON

893.51/4325

The President of the Riggs National Bank (Milton E. Ailes) to the Second Assistant Secretary of State (Harrison)

WASHINGTON, *June 7, 1923.*

DEAR MR. SECRETARY: Referring again to the matter of the South Manchurian Railway loan, I have the honor to enclose the original of a letter which I have just received from Mr. R. M. Byrnes, Vice President of the National City Company of New York,[58] in which he reviews the history of previous negotiations at the State Department for the purpose of setting the record straight, as Mr. Byrnes sees it.

On page four of Mr. Byrnes' letter he states that he clearly understands from the letter of the Department of State addressed to me under date of May 23 that the Department does not regard with favor such a loan, but, before giving a final reply to that effect to the National City Company's representative in Japan, the National City Company would appreciate it if I would inquire from the State Department whether, if a loan were issued in this country, and all the proceeds thereof were spent for equipment and materials in this country, the State Department would have any objection to its negotiation and flotation.

Will you kindly consider the matter from the standpoint of the expenditure of the entire proceeds of the proposed loan in the United States, and let me know as conveniently soon as possible if the State

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[58] Not printed.

Department would be favorable or unfavorable to such loan on such condition?

Very respectfully,

M. E. Ailes

893.51/4325

The Second Assistant Secretary of State (Harrison) to the President of the Riggs National Bank (Milton E. Ailes)

Washington, *June 15, 1923.*

My Dear Mr. Ailes: The Department is in receipt of your letter of June 7, 1923, transmitting the original of a letter from Mr. R. M. Byrnes of the National City Company, New York City, of date June 6, 1923,[59] on the subject of the recently proposed loan to the South Manchuria Railway Company and of earlier proposals; and attention has been given to Mr. Byrnes' detailed account of his conference with officials of the Department in 1919 and of the negotiations between the National City Company and the Company's representative in Japan at that time.

The reference in the second paragraph of your letter to the first paragraph of the fourth page of Mr. Byrnes' letter, and the inquiry whether if the loan now under consideration were issued in this country and all the proceeds thereof were spent for equipment and materials in this country the State Department would have any objection to this negotiation and flotation, are noted.

In reply, I would refer again to the explanation given orally in connection with discussions of the loan to the Oriental Development Company and repeated in the Department's letter to you of May 23, 1923, that, in the opinion of the Department, it is as a matter of general policy not desirable that American credit be placed at the disposal of foreign interests for investments or enterprises in third countries in cases in which the use of such American credit would tend to prejudice or circumscribe the opportunities for American enterprise or to further the organization of competition therewith. In the view of the Department, this broad statement of principle is not properly susceptible of modification on the basis of a specification that a given portion or all of the proceeds of a particular loan shall be devoted to purchases in the United States.

I regret, therefore, to have to inform you that the Department's view of this proposal remains as set forth in the Department's letter of May 23, 1923.

I am [etc.] Leland Harrison

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[59] Not printed.

AGREEMENT BETWEEN THE UNITED STATES AND JAPAN, SIGNED AUGUST 23, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF MAY 5, 1908 [59a]

Treaty Series No. 683

Agreement between the United States of America and Japan, Signed at Washington, August 23, 1923 [60]

The Government of the United States of America and the Government of His Majesty the Emperor of Japan, desiring to extend for another five years the period during which the Arbitration Convention concluded between them on May 5, 1908, and extended by the Agreement concluded between the two Governments on June 28, 1913,[61] and further extended by the Agreement concluded between the two Governments on August 23, 1918,[62] shall remain in force, have respectively authorized the undersigned, to wit: Charles Evans Hughes, Secretary of State of the United States, and His Excellency Masanao Hanihara, His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington, to conclude the following Agreement:

Article I

The Convention of Arbitration of May 5, 1908, between the Government of the United States of America and the Government of His Majesty the Emperor of Japan, the duration of which by Article III thereof was fixed at a period of five years from the date of the exchange of ratifications, which period, by the Agreement of June 28, 1913, between the two Governments was extended for five years from August 24, 1913, and was extended by the Agreement between them of August 23, 1918, for the further period of five years from August 24, 1918, is hereby extended and continued in force for the further period of five years from August 24, 1923.

Article II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the Emperor of Japan, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

[59a] For text of convention of 1908, see *Foreign Relations*, 1908, p. 503.

[60] Ratification advised by the Senate, Dec. 18, 1923; ratified by the President, Feb. 11, 1924; ratified by Japan, Feb. 20, 1924; ratifications exchanged at Washington, Apr. 26, 1924; proclaimed by the President, Apr. 26, 1924.

[61] *Foreign Relations*, 1914, p. 424.

[62] For text of agreement, see Malloy, *Treaties*, 1910–1923, vol. III, p. 2722.

Done in duplicate in the English language at Washington this twenty-third day of August, one thousand nine hundred and twenty-three, corresponding to the twenty-third day of the eighth month of the twelfth year of Taisho.

[SEAL] CHARLES EVANS HUGHES
[SEAL] M. HANIHARA

711.9412/24

The Secretary of State to the Japanese Ambassador (Hanihara)

WASHINGTON, *August 23, 1923.*

EXCELLENCY: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and the Government of His Majesty the Emperor of Japan, May 5, 1908, and renewed from time to time, I have the honor, in pursuance of our informal conversations, to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague.[63] As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of His Majesty the Emperor of Japan will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.] CHARLES E. HUGHES

711.9412/25

The Japanese Ambassador (Hanihara) to the Secretary of State

WASHINGTON, *August 23, 1923.*

SIR: I have the honor to acknowledge the receipt of your note of today's date, communicating to me your understanding reached in our informal conversations in connection with the renewal of the Convention of Arbitration concluded between Japan and the United

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[63] Vol. I, pp. 1 ff.

States, May 5, 1908, and extended in its operation until August 24 of this year.

I am happy to be able to confirm to you, under instructions from my Government, your understanding as set forth in the following terms:

"On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at the Hague. As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of His Majesty the Emperor of Japan will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice."

Accept [etc.] M. HANIHARA

LATVIA

EXTRADITION TREATY BETWEEN THE UNITED STATES AND LATVIA, SIGNED OCTOBER 16, 1923

Treaty Series No. 677

Treaty between the United States of America and Latvia, Signed at Riga, October 16, 1923 [1]

The United States of America and Latvia desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America: F. W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary of the United States at Riga; and

The President of the Republic of Latvia: Germain Albat, Minister Plenipotentiary, Secretary General for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Article I

It is agreed that the Government of the United States and the Government of Latvia shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes specified in Article II of the present Treaty committed within the jurisdiction of one of the High Contracting Parties, and who shall seek an asylum or shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

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[1] Ratification advised by the Senate, Jan. 7, 1924; ratified by the President, Jan. 10, 1924; ratified by Latvia, Feb. 8, 1924; ratifications exchanged at Riga Mar. 1, 1924; proclaimed by the President, Mar. 3, 1924.

Article II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Abduction or detention of women or girls for immoral purposes.

5. Bigamy.

6. Arson.

7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

8. Crimes committed at sea:

a) Piracy, as commonly known and defined by the law of nations, or by statute;

b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;

d) Assault on board ship upon the high seas with intent to do bodily harm.

9. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.

10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance and other companies, or other buildings not dwellings with intent to commit a felony therein.

11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear.

12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments,

bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Latvian equivalent.

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Latvian equivalent.

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or Latvian equivalent.

19. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Latvian equivalent.

20. Perjury or subornation of perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Latvian equivalent.

22. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

23. Wilful desertion of minor or dependent children.

24. Extradition shall also take place for participation in any of the crimes before mentioned as an accessory before or after the fact; provided such participation be punishable by imprisonment by the laws of both the High Contracting Parties.

Article III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the High Contracting Parties in virtue

of this Treaty shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such crime or offense was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense other than that for which he was surrendered.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the fugitive may be found, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE IX

The expense of arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

Article X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

Article XI

The stipulations of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of Government, or where extradition is sought from territory included in the preceding paragraphs, other than Latvia or the United States, requisitions may be made by superior consular officers. It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify it to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

In case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

The person provisionally arrested shall be released, unless within two months from the date of arrest in Latvia, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding Government or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall

be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

Article XII

In every case of a request made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition; provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

Article XIII

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect on the date of the exchange of ratifications which shall take place at Riga as soon as possible.

Article XIV

The present Treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the Treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have hereunto affixed their seals.

Done in duplicate at Riga this sixteenth day of October, nineteen hundred and twenty-three.

[SEAL] F. W. B. Coleman
[SEAL] G. Albat

LUXEMBURG

ACCREDITING OF THE AMERICAN AMBASSADOR TO BELGIUM AS REPRESENTATIVE OF THE UNITED STATES NEAR THE GRAND DUCAL GOVERNMENT

124.50a/4

The Chargé in the Netherlands (Sussdorff) to the Secretary of State

No. 1148 THE HAGUE, *December 19, 1922.*

[Received January 4, 1923.]

SIR: I have the honor to report that, in spite of the fact that the Government of Luxemburg has expressed the earnest desire that the United States Government should continue to accredit the American Minister at the Netherlands in a similar capacity to the Grand Duchy, I am of the opinion that the combination of these two missions has ceased to serve the best interests of the United States Government.

The economic agreement between Belgium and Luxemburg, which became effective a few months ago, has brought these two countries into a closer and closer economic relationship. With the exception of the United States, all of the countries which accredit diplomatic representatives to Luxemburg and do not maintain permanent diplomatic missions there have now found it desirable to transfer their representation in the Grand Duchy to their Embassies and Legations in Brussels. From the point of view of efficiency, there can be no doubt that a foreign representative in Brussels is in an infinitely better position to follow the situation in Luxemburg than a foreign representative in The Hague. Reports from American missions in Brussels and Luxemburg would be inter-related, whereas the American mission in the Netherlands is completely detached from the situation in the Grand Duchy. The question of distance is also an important one: it takes thirteen hours to make the journey from The Hague to Luxemburg, whereas Brussels and Luxemburg are only separated by a train journey of five hours.

The combination of the American missions in the Netherlands and Luxemburg is frequently a disadvantageous one because the American representative at The Hague is virtually obliged to abandon his more important duties there to make occasional visits of ceremony to the Grand Duchy. It is only by such visits that the Legation at The Hague is able to obtain any information regarding events in Luxemburg. . . .

I am therefore of the opinion that it is desirable for the American representation in the Netherlands and Luxemburg to be separated. If the Department does not desire to accredit the American Ambassador at Brussels as Minister Plenipotentiary to the Grand Duchy, it occurs to me that a possible solution of the difficulty might be the establishment of the post of Minister Resident and Consul General of the United States in Luxemburg. . . .

I have [etc.] LOUIS SUSSDORFF, Jr.

124.50a/4

The Secretary of State to the Chargé in the Netherlands (Sussdorff)

No. 470 WASHINGTON, *January 12, 1923.*

SIR: With reference to your Despatch No. 1148, December 19, 1922, you are informed that the Department has for sometime had under serious consideration the question of American representation at the Grand Ducal Court of Luxemburg.

The Department has already decided that it would be better eventually to accredit the Ambassador to Belgium as Minister to Luxemburg, and this recommendation was made to Congress on July 18, 1922. As no action was taken, it was not deemed advisable to press the matter further at the time, but you are confidentially informed that the Department expects to take it up with Congress again in connection with the deficiency bill soon to be presented. You will be kept informed of the status of the case.

As to your suggestion that it might be possible to establish the post of Minister Resident and Consul General of the United States in Luxemburg, you are informed that this possibility has also been considered by the Department but that American interests in the Grand Duchy are not of sufficient importance to make the creation of such a position advisable.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

124.50a/7 : Telegram

The Secretary of State to the Chargé in the Netherlands (Sussdorff)

[Paraphrase]

WASHINGTON, *March 21, 1923—6 p.m.*

16. The Department desires you to inform the Minister for Foreign Affairs of Luxemburg that it is the intention of the Government of the United States to accredit as its representative near the Grand Ducal Government the American diplomatic representative at Brus-

sels instead of the representative at The Hague, as has heretofore been the practice; and also that to this end you are directed to request the *agrément* of Mr. Fletcher, whom the President desires to appoint as Minister to Luxemburg. If the Government of Luxemburg request to be informed through what channels it may communicate with the Department during the interval before Mr. Fletcher presents his letter of credence,[1] you may reply that it may continue to send its communications through the Legation at The Hague and addressed to yourself as Chargé d'Affaires ad interim. This duty will not entitle you to additional compensation and you will not visit Luxemburg without the express authorization of the Department.

HUGHES

[1] Mr. Fletcher presented his letter of credence on Oct. 29, 1923.

MEXICO

RECOGNITION OF THE GOVERNMENT OF GENERAL OBREGÓN BY THE UNITED STATES AND THE RESUMPTION OF DIPLOMATIC RELATIONS[1]

711.1211/61a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, *March 7, 1923—11 a.m.*

21. On February 27, General James A. Ryan[2] in person informed the Department that General Obregón had assured him a short time ago that he would be pleased to see the problems between the United States and Mexico discussed by a commission to be made up of representatives of the two countries. The Secretary replied that such a procedure was most agreeable to him, in fact he had thought of suggesting the same idea, but had not done so, fearing that a premature suggestion would come to naught, and render it impossible to use this promising procedure on a more auspicious occasion.

On March 5, at a subsequent meeting, General Ryan was informed by the Secretary that President Harding was favorably disposed towards the suggestion, and was ready to name two representatives of the United States to confer with two representatives of Mexico for the purpose of discussing the questions now existing between the two nations. The Secretary stated further that he does not favor any secret procedure and, if the step be taken, he prefers that it should be taken openly, and that a public announcement of the appointment of the commission should be made. It does not matter whether the procedure is suggested by General Obregón or here. In either case, however, the American Embassy in Mexico is the channel through which the suggestion should be made, as well as the arrangement of the details. This telegram is sent you merely for your information, and in case General Obregón should not decide to make the suggestion, you need take no steps in the matter.

HUGHES

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[1] For previous correspondence, see *Foreign Relations*, 1922, vol. II, pp. 639 ff.

[2] Representative of the Texas Oil Co., S. A., in Mexico.

711.1211/61

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 7270 [Mexico City,] *April 5, 1923.*
[Received April 12(?)]

Sir: In confirmation of my telegram No. 21, April 4, 5 P. M.,[3] and with reference to your informal instruction dated July 28, 1923 [*1922*],[4] and to previous correspondence, in regard to the proposed Treaty of Amity and Commerce, I have the honor to enclose herewith a copy and translation of Mr. Pani's informal note dated March 31, 1923, which was delivered to me yesterday by a member of the Protocol Section of the Foreign Office.

I have [etc.] George T. Summerlin

[Enclosure—Translation [5]]

The Mexican Minister for Foreign Affairs (Pani) to the American Chargé (Summerlin)

Mexico City, *March 31, 1923.*

My Dear Mr. Summerlin: By direction of the President of the Republic I have the honor to reply to your letter of August 3 of last year with which was enclosed a true copy of an instruction to you from the Secretary of State at Washington referring to my letters of the 4th and 24th of May of the same year.[6]

This Government is pleased to note that that instruction suggests the possibility of a desirable change of procedure, abandoning the narrow method of signing a treaty of amity and commerce—which as an unavoidable condition precedent to granting recognition to the present Government of Mexico prejudiced the national sovereignty and dignity—for the broad method of an adequate development of the Mexican governmental program which has included and still includes the intention to respect rights legally acquired prior to the promulgation of the Constitution of 1917. In spite of the fact that the present Government of Mexico, from its inauguration, has given continuous proofs of its ability to carry out such a program, yet as the resultant of its policy in this respect was considered unsatisfactory by the Department at the time you sent the letter I am now answering—although satisfactory enough to render the attitude of Department, while maintaining all that was essential, compatible with the only attitude which the Mexican Chancellery has properly been able to assume notwithstanding its great desire to reach an early

[3] Not printed.
[4] *Foreign Relations*, 1922, vol. II, p. 674.
[5] File translation revised.
[6] *Foreign Relations*, 1922, vol. II, pp. 653 and 661.

agreement—President Obregón, respecting the right of others to judge freely the results of his official acts and awaiting, confident in the cooperation of the other federal powers, in the support of public opinion, and the powerful evidence of other facts that would soon have to be added to his political credit, decided to postpone this reply.

Since then, in fact, the Government of Mexico has performed acts of such importance in carrying out its program that they must have an advantageous effect on the solution of the problem of the diplomatic relations of the two Governments—granted the good disposition manifested by both parties—and this, above all, if the present complicated Mexican question be considered a little from the human and not solely from the legal and somewhat commercial standpoint, as it appears to have been considered abroad, without regard to its deep influencing historical causes and the interests of the country itself.

In order to define the present state of the international situation between Mexico and the United States it will be necessary to make a brief examination of the five points contained in the final summary of the said instruction of the Department of State at Washington and which, in August of last year, the said Department presented as obstacles preventing the resumption of normal diplomatic relations between the two countries, namely:

The first point refers to the agreement for the resumption of the payment of interest and the amortization—suspended since the year 1914—of the foreign debt, arranged in New York between the Secretary of the Treasury of Mexico and the International Committee of Bankers. This agreement provides guarantees entirely satisfactory to the holders—mostly Americans—of the bonds, whose value amounts to the large sum of one thousand four hundred million pesos; it includes, further, the return of the National Railways of Mexico to the owning company—of which also Americans are the principal bondholders—and has been ratified both by the President of the Republic and the Congress of the Union and, consequently, is now in full force and effect. This obstacle, therefore, has disappeared.

The second point relates to the negotiations initiated, also in New York, between the same Secretary of the Treasury and the representatives of the principal companies interested in the exploitation of the Mexican petroleum wealth. These negotiations tended toward a special form of financial reorganization of those companies which might guarantee—independently of the respective legislation—their rights and which might facilitate the subsequent development of their interests. The corresponding agreement, which was not

concluded, would constitute—from the sole point of view of the guarantees demanded—an unnecessary protection additional to that which the future organic law of article 27 of the Constitution will afford. The lack, then, of this agreement does not necessarily imply the absence of securities for petroleum rights prior to 1917, nor can it constitute, therefore, an international obstacle or difficulty.

The third point deals with the protection of titles legally acquired by American citizens before the Constitution of 1917 was promulgated. This question also will be resolved by the future organic law of constitutional article 27.

The fourth point speaks of the decisions which the Supreme Court of Justice of the Nation has rendered in five cases of *amparo* of oil companies against the President of the Republic and the Secretary of Industry and Commerce, for acts of retroactive application of constitutional article 27, the presumption being that the said decisions are insufficient to protect all the rights which American citizens may have acquired in Mexico before the year 1917. The Court, naturally, limited its decisions to the concrete cases which gave rise to them and, under this aspect, the result could not be more favorable to the interested companies, since, aside from being duly protected, the second paragraph of the said decisions—emanating from the highest authority in the matter—has defined in an unmistakable manner, as will be seen later, the nonretroactive character of article 27 of the Constitution, in that part relative to petroleum. This obstacle, therefore, is also removed.

The fifth point finally refers to the expropriations carried into effect, without indemnification, for the restorations and grants of *ejidos*.

The five questions considered in the foregoing lines, consequently, may be condensed—in order to be resolved from the American point of view—into two: The enactment of the organic law of constitutional article 27, and the indemnification for the lands expropriated.

Let us examine these two questions separately.

Regulation of constitutional article 27.—It is obvious that the part of this article which principally interests the Government of the United States is that which relates to the exploitation of petroleum, as much because of what this product signifies as a factor in the industrial development and, therefore, of military and naval power, as of the enormous amount of capital which American citizens have invested or desire to invest in this exploitation.

Firstly, there must be borne in mind the almost fabulous development of the Mexican petroleum industry during the six years that have elapsed during the regime of the nationalization of the products of the subsoil, reestablished by the Constitution of 1917. In

1916, in fact, there were extracted 40,545,712 barrels of petroleum, a production which increased during the period referred to above as follows:

	Total production	*Increase compared with 1916*
Year of 1917	55,292,770 barrels	14,747,058 barrels
" 1918	63,828,326 "	23,282,614 "
" 1919	87,072,954 "	43,827,242 "
" 1920	157,068,678 "	116,522,966 "
" 1921	193,397,582 "	152,851,875 "
" 1922	182,278,457 "	141,732,745 "

The Mexican production of petroleum, according to these figures, has increased almost fivefold compared with the maximum recorded before the present Constitution went into effect. This fact demonstrates in a conclusive manner that the new constitutional regime does not place the slightest obstacle in the way of the increase of the petroleum exploitation.

But there is still more. The petroleum industry in Mexico is now estimated at $1,050,532,434.00, a capital which is distributed between the different nationalities interested, as follows:

American	$606,043,239.00, or	57.7%
English	354,776,199.00, "	33.8%
Dutch	71,197,308.00, "	6.7%
Mexican	11,582,405.00, "	1.1%
Various	6,933,283.00, "	0.7%

This proves, therefore, that to foreign companies—and, among them the American companies—belongs the greater industrial and financial prosperity realized under the protection of the regime of the nationalization of the subsoil.

The figures cited above show even better the absolute lack of justification of the fears felt by the oil men—and above all American oil men—because of the principles which the new Mexican Constitution sustains, if it be remembered that the plan of national reconstruction which served as the banner of General Obregón in the electoral campaign tended to correct the retroactive application of that Constitution which a former government recognized by the White House tried to make with respect to the rights acquired over petroleum deposits. This purpose General Obregón himself, as President of the Republic, has reiterated in numerous statements and realized with acts such as, for example, suspending the operation of decrees issued by that same former government which retroactively regulated constitutional article 27 and which were precisely those which gave rise to petitions of *amparo* by the companies affected. Furthermore, these *amparos* remained undecided as long as the regime which issued the said decrees remained in power and, as a proof of the present cooperation in such respect of the other federal powers, the Supreme Court of Jus-

tice of the Nation—as I have already said—granted *amparo* to the companies affected and established the nonretroactive character of the constitutional article which is dealt with in five uniform decisions—in order to constitute judicial precedent—which, in the relevant portion, reads as follows:

"In order that a law may have retroactive effect two circumstances are required: that it apply as to time past and alter the past; and that it damage rights acquired under the protection of other former laws, because this new law is in opposition to them. The latter circumstance, above all, is essential; for even when the laws relate to the past but are nevertheless harmless to rights and do not affect any rights previously acquired, retroactivity does not really exist; and they cannot be the cause of conflicts or be the basis of an *amparo*.

"These premises being accepted, we must ascertain whether paragraph 4 of article 27 of the Constitution in force, which nationalizes, among other substances, petroleum and all the solid, liquid and gaseous hydrocarbides, is or is not retroactive.

"We must therefore define the meaning of paragraph 4, because, if it is retroactive, there must also be applied retroactively the decrees complained of that have this article as a basis, notwithstanding article 14 of the Constitution; and if this paragraph is not retroactive, then those decrees are contrary to the said constitutional text and fall, as enactments of the ordinary legislative branch, under the terms of the above mentioned article 14 of the new supreme law.

"Paragraph 4 of article 27 of the present Constitution cannot be deemed retroactive, either in letter or in spirit, since it does not damage acquired rights. Not by letter thereof, for it does not contain an express mandate decreeing retroactivity, nor does the wording thereof necessarily convey the idea by implication. Not by its spirit, for it proves to be in consonance with the other articles of the same Constitution, which recognize, in a general way, the ancient principles upon which rest the rights of man and which grant to him ample guarantees, and because if it be held to be not retroactive, it also proves to be in harmony with the principles expressed in the paragraphs which immediately precede it on the subject of private ownership from its inception, as integral parts of the constitutional article 27 itself.

"From all this it is inferred that, in consonance with the rules universally accepted for the interpretation of laws and those imposed by sound logic, it must be held that paragraph 4 of article 27 of our present Constitution is not retroactive, inasmuch as it does not damage former rights legitimately acquired. This precept establishes the nationalization of petroleum and its by-products, as well as that of the other substances to which it refers, amplifying the enumeration that existed in our former mining laws, but respecting the rights legitimately acquired prior to May 1, 1917, the date on which the present Constitution went into effect in its entirety."

I repeat that this perfect agreement as to the judicial meaning of constitutional article 27 respecting petroleum not merely exists between the executive and judicial powers, but also extends to the legis-

lative power, as this high body has declared in diverse and sufficiently clear forms each time it has referred directly or indirectly to the regulation of this article. In recent days the Chamber of Deputies has again debated a project of the organic law framed by the respective parliamentary committees, has repeated its views in favor of nonretroactivity and has asked the Secretary of Industry and Commerce that he expound the views of the Executive, both views having agreed absolutely. Further, President Obregón has publicly ratified the declarations made by his secretary before the Chamber of Deputies.

On the other hand, it must be admitted that the delay in the enactment of the organic law in question is attributable, above all, to causes outside of the Government of Mexico and derived, unfortunately, from the international question itself. In fact, as extraordinary sensibility towards all that may prejudice or appear to prejudice the sovereignty and dignity of the nation is one of the most striking characteristics of Mexican political psychology, it is clear that, in this respect, the insistence upon the previous signing of a treaty of amity and commerce with stipulations tending to guarantee rights legitimately acquired in Mexico by American citizens as a condition to recognizing this Government, and the correlative incidents connected with such insistence, have undoubtedly restrained the freedom of action of the executive and legislative powers, because their labors in the formation of the said organic law then might appear before public opinion with the false aspect of servile obedience to foreign pressure. It is obvious, then, that not even this involuntary and lamentable delay can justify the actual suspension of diplomatic relations between the two Governments, not only because the friendly act of their renewal would be an efficient factor in the rapid and satisfactory framing of the organic law of article 27 of the Constitution, but also because, without this, the present governmental policy—as has been already demonstrated—fully sanctioned by the highest tribunal of the Republic, far from affecting the rights legally acquired prior to 1917, or hindering the creation of new rights, has permitted a marvelous development of the petroleum interests and, principally, of those of American origin.

Indemnification for expropriated lands.—In this Chancellery's note of May 24, 1922, a complete exposition was made of the origin of the Mexican agrarian question, the long-drawn-out and laborious evolution of the popular aspiration for its solution and the pressing political circumstances which have contributed to this solution. I shall now limit myself, therefore, to emphasizing on the one hand the point that best justifies the attitude of the Government in this respect, and, on the other hand, the insignificance of the American agricultural in-

terests affected in comparison with those of other nationalities, including Mexican, and in comparison with other interests already satisfied, also American.

Despoiled of their lands by the Spanish *conquistadores* and *encomenderos*, plundered during three centuries of colonial regime, gun fodder for another century of civil wars and struggles for independence, and those of three foreign wars—two with France and one with the United States—the poor native population, as if the suffering from all these calamities had not been enough, also suffered, after the partition of *ejidos* and *bienes comunales* brought about by the Constitution of 1857, the consequences of the complete absorption of the small landholdings by the large estates which, in accordance with the immoral policy of favoritism of those Few Above at the expense of the Many Below, was developed by the Días oligarchy. It is not at all strange, then, that the aspiration of the people to recover the lands may have been—as has already been said—the most vigorous and persistent of all those which moved the popular Mexican spirit during the last revolution to the point of being rendered into radical laws—and of carrying the revolutionary impulse which engendered it beyond the period of armed struggle, keeping many fires of rebellion lit—justified, on the one hand, by bitter disappointments from governments which, forgetting the promises made in election campaigns, were accustomed to subject the internal policy to the rules imposed by national and foreign capital and, on the other hand, by the inactivity and vacillation shown by the former governments arising from the revolution, as to the recovery of lands—until the present administration succeeded in extinguishing said fires and reestablishing peace in all the national territory, more through the effect of the prompt application of the agrarian laws than by means of military force and shedding of blood. No one doubts that in the face of such a dilemma, the solution adopted was the most humane and economic—despite the inevitable injury to some private agricultural interests national and foreign—because repression by force, of uncertain and transitory results, would have necessarily affected the agricultural, urban, industrial and moral interests of all the country, with its eternal procession of all kinds of evils. This undeniable fact sufficiently justifies the hasty action which the Federal Executive had to resort to in order quickly to restore or grant the *ejidos* to the towns, taking the lands necessary for this from the surrounding *haciendas*, even postponing the indemnification for those expropriations and consequently affecting a part of the national and foreign agricultural interests of the Republic; but in comparison with amounts owned affecting infinitely more Mexican properties than Spanish, and four or five times more Spanish than American, etc. Naturally, owing to the haste with

which the Government necessarily has had to act, to the end of being certain of obtaining at once the general pacification of the country and of avoiding the greater and truly irreparable damages of civil war, it was not able efficiently to organize the necessary personnel. It is to be remembered in this respect that faulty administrative organization is an evil from which some of the most civilized countries of the world still suffer and that this evil was necessarily aggravated in Mexico as a consequence of the last years of revolutionary anarchy. And in the face of the popular desire for lands, long repressed, the noble enthusiasm, almost explosive, of some agrarians and the machinations of political agitators who found a fertile field for promoting themselves, it was not possible on many occasions for official action to be confined within the limits of strict legality.

The Federal Executive, who honestly confesses the foregoing and sincerely regrets it, feels on the other hand the satisfaction of having reestablished peace in all the national territory, of having solved its principal financial difficulties by renewing the service of the public debt, and of now being able to proceed to the legal indemnification for the expropriations that have taken place—based, as is known, on the value which the owners themselves may have declared to the fiscal authorities, plus the improvements and ten per cent—and to continue his agrarian policy, of which there only remains a minimum to be done in comparison with that already done, by means strictly in accordance with the law and tempered by an ample spirit of conciliation. To this end, President Obregón, in the middle of last month, called a meeting of all the city attorneys and presidents of the local agrarian commissions of the Republic, and, in the opening session, after explaining to them the object of his call and the nature of the legislation in connection therewith, he recommended, in solemn manner, that they bear in mind the following points:

"First. To honor the official positions which had been committed to their care, showing the highest respect for the laws and the authorities in the name of whom they acted.

"Second. That their character as representatives of the law and of the authorities incapacitates them from assuming the character of political leaders, because it is no longer a matter of serving a political party or of imposing a principle, but of faithfully complying with the law, which is no longer under discussion, and

"Third. That, in all those cases in which obstacles are encountered in the fulfillment of their duties, they must ask for the aid and advice of the superior authorities who have appointed them and, in no case, solicit aid from political parties or armed groups.

"The Executive Office in my charge—the President continued—has already shown a frank and firm intention of looking out for the fulfillment of all the laws which govern the country, assuming all the responsibility which pertains to his policy as ruler; but it is necessary, further, that all his collaborators shall keep clearly in

view the part of that responsibility incumbent upon them and try, within their sphere of action, to confine themselves in such a manner to the fulfillment of their duty and the law, that they may be proud of it. I beg of you therefore that on returning to your labors you bear in mind my recommendations, endeavoring faithfully to interpret them, in order that your collaboration harmonize with the course which the Federal Executive desires to give to the development of so important a precept. Then we will be satisfied with our work without offering a single target for the arrows of our enemies to whom we should always set up the rule of law as the only barrier."

Considering, finally, all that which I have explained with respect to the antecedents of the Mexican agrarian problem, of the conditions which have entered into its solution and of the way in which necessarily it has had to be solved, in relation to the damages caused American landowners; considering, also that these damages have avoided others greater and irreparable, and have contributed to the national pacification; that the benefits derived from this fact—not those that will be felt by all the inhabitants of the country, but only those which touch the very persons affected by the agrarian policy—will amply compensate the damages produced; that the Government proposes—and is in a position to carry out this purpose—to indemnify them in accordance with the law, and recalling, finally, the insignificance of the interests involved—until now the claims presented reach 26, while the Spanish claims exceed 100 and the Mexican claims are even greater—in comparison with those of the Foreign Debt, service of which has already been resumed, with those of the National Railway Company of Mexico, restitution of which is already agreed upon, and with the petroleum interests which, despite the harshness with which they were dealt by a former administration recognized by the Government of the White House, and the radicalism which may be attributed to the laws which govern them, have grown and prospered in an extraordinary manner under the protection offered by the present Government of Mexico; considering all this, I repeat, it may be affirmed that the damages to American agricultural properties, as much because of their insignificance as because of the fact that they were occasioned by inevitable and undelayable Mexican needs, if considered, as I said at the beginning of this letter, more from the human than the legal standpoint, they will never justify the systematic resistance, worthy of a better cause, which the Government of the United States has been opposing to the currents of sympathy, without precedent in the history of the two neighboring peoples, created and developed under the protection of the good will of the Government of Mexico and eloquently revealed by the resolutions in favor of the immediate resumption of

diplomatic relations between both Governments, presented to the Department of State at Washington by the majority of the legislatures of the States of the American Union and many official and private institutions of that country.

I am [etc.] A. J. Pani

711.1211/62 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

Mexico City, *April 14, 1923—4 p.m.*
[Received April 15—1:22 a.m.]

23. Your 21 March 7, 11 a.m. Pani called me Foreign Office noon today and handed me a copy in English of the following letter dated April 9th from General Obregon to Ryan:

"I beg to refer to our last conference on the subject of the international relations between Mexico and the United States in which you have shown such a deep interest not only as an American citizen residing in Mexico and fully acquainted therefore with her present situation and that of her Government but also as the common friend of President Harding and myself.

In that conference you expressed to me your doubts as to the possibility of a quick settlement between the two Governments if—as has been the case so far—communication is established through slow and formal diplomatic channel. In view of this fact you suggested to me the convenience of the appointment by each of the two Governments of delegates who being sufficiently identified with their policy and views should come in direct contact with each other for an exchange of impressions during a relatively short period and with the sole object to report afterwards to their respective high officials.

I have considered this suggestion and since President Harding is in sympathy with your friendly suggestions I wish to say that my administration would be pleased to accept that suggestion also showing thus once more its good will to cultivate with the Government of the White House the cordial feelings of friendship existing between the Mexican and the American people. Therefore if the President of the United States were to appoint two delegates for the above-mentioned purpose I would do the same in my capacity of President of this Republic.

It is not necessary for me to express here the utmost satisfaction it would afford me should the occasion arise to offer the American delegates our hospitality as guests of honor of this city where in addition they would find the greatest facilities for their work and the best sources of information available. It is obvious that through these means and in these circumstances the two Governments would more easily arrive at the possession of the true facts correcting the unfortunate errors that have been an obstacle to their good understanding and bringing about with the greatest possible economy in time and procedure a real *rapprochement* toward the desired normalization of their diplomatic relations."

Pani suggested that identic statements regarding the proposal be published simultaneously here and at Washington and that he would be glad to receive the statement prepared by the Department for publication here. Please instruct.

SUMMERLIN

711.1211/62 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *April 17, 1923—5 p.m.*

30. Your 23 April 14, 4 P.M.

Advise Mr. Pani that following statement is proposed for release to the press for publication on agreed date as soon as possible which it is hoped will be not later than April 22 with the understanding that Mexican authorities will give identic statement to the press in Mexico for publication on date fixed. Wish to avoid premature rumors by prompt authorized statement.

"With the view of arriving at a mutually acceptable basis for the adjustment of the fundamental questions at issue between the United States and Mexico, two United States commissioners and two Mexican commissioners will be appointed to meet for the purpose of considering those questions and of reporting their conclusions to their respective authorities. The hospitality of Mexico City has been offered to the American commissioners as the City's guests of honor and the Commission will convene there. The names of the commissioners will be announced later."

The foregoing statement is so worded as to avoid all reference to "governments" or "presidents".

The American commissioners will be Charles Beecher Warren former United States Ambassador to Japan and John Barton Payne, former Secretary of the Interior. We should prefer to announce their appointment at once and if Mexico is ready to announce her commissioners the words "will be" in the first sentence of the statement should be changed to "have been" and the names of the commissioners stated in the last sentence. Telegraph.

HUGHES

711.1211/63 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO CITY, *April 19, 1923—6 p.m.*

[Received April 20—3:56 a.m.]

24. Your 30, April 17, 5 p.m. Mr. Pani states that in order to keep strictly within the spirit of the preliminary informal agree-

ment reached (see General Obregon's letter to Ryan April 9th [8]) he proposes the following text for the identic statement to be published here and Washington in the morning newspapers of April 22d:

"With the view to hasten the reaching of a mutual understanding between the Governments of the United States and Mexico, two American commissioners and two Mexican commissioners will be appointed to meet for the purpose of exchanging impressions and of reporting them to their respective authorities. The hospitality of Mexico City has been offered to the American commissioners as the city's guests of honor, and the commission will convene there. The names of the commissioners will be announced later."

I endeavored to induce Mr. Pani to omit the words "the Governments of" but without success.

SUMMERLIN

711.1211/63 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *April 20, 1923—6 p.m.*

31. Your 24, April 19, 6 p.m. Identic statement proposed by Mr. Pani acceptable, but subject to the following explanatory statement which need not be published but which should be made in writing to Mr. Pani when you agree on public statement as set forth in your telegram:

"It is not the desire of the Department of State to create any difficulty in respect to the mere use of words, when the endeavor is to find an appropriate and sound basis for the resumption of diplomatic relations. On the other hand this endeavor itself should not be construed as changing the *status quo* in case there should be failure to reach a mutually satisfactory understanding. The United States therefore must have it understood that in the arrangements for the meeting of the Commissioners, in the use of the expression 'the Governments of the United States and Mexico' in the proposed identic public statement and in the proceedings, which are intended to be of the most friendly nature, on the part of the American Commissioners, the United States is not changing its position or giving recognition. The United States will approach the consideration of all the pending questions in the liberal spirit of friendship but it must reserve its position intact until a common understanding is reached. Hence the appointment of Commissioners and their conferences with Mexican Commissioners and exchange of courtesies in Mexico are not to be taken as an according of recognition to the regime now functioning in Mexico."

Telegraph the date agreed upon for publication so that it may be made simultaneously here and in Mexico.

HUGHES

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[8] Quoted in Embassy's telegram no. 23, Apr. 14, p. 532.

711.1211/65 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO CITY, *April 21, 1923—10 p.m.*
[Received April 22—1 : 02 a.m.]

25. Your 31 April 20, 6 p.m. Identic statement proposed by Mr. Pani transmitted textually in my cipher telegram 24 April 19, 6 p.m. will be published here in the newspapers Tuesday morning April 24th. If date is satisfactory to the Department please instruct.

SUMMERLIN

711.1211/65 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *April 22, 1923—10 a.m.*

32. Inform Mr. Pani that date specified in your 25 April 21, 10 p.m. for publication of identic statement is satisfactory to Department.

HUGHES

711.1211/67 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO CITY, *April 25, 1923—11 a.m.*
[Received 6 : 10 p.m.]

29. Your cipher telegram 33, April 24, 1 p. m.[9] Mr. Pani advises names of Mexican Commissioners are—

"Mr. Ramon Ross, one of the closest friends of the President of the Republic and one of those who best know his personal political points of view, a member of the last constitutional convention and the present Director General of Public Charity; and Licentiate Fernando Gonzalez Roa, who served among other posts as subsecretary of the Interior, general counsel of the national railways of Mexico and member of its board of directors."

Names of commissioners published in today's local press.

SUMMERLIN

711.1211/98b

The Secretary of State to the Chargé in Mexico (Summerlin)

No. 2431 WASHINGTON, *May 5, 1923.*

SIR: I enclose, for your information and guidance, a copy of a letter which I have addressed to the American members of the United States–Mexican Commission, in regard to the Department's desire

[9] Not printed.

that the appropriate representatives in Mexico of Cuba, Belgium, France, Great Britain and Poland be given timely advice of such developments arising out of their conferences with the Mexican Commissioners as may be suitable and will not embarrass their negotiations.

I am [etc.] CHARLES E. HUGHES

[Enclosure]

The Secretary of State to United States Commissioner Warren[10]

[WASHINGTON,] *May 5, 1923.*

SIR: For your information and guidance, I desire to inform you that the Governments of Belgium, France, Great Britain and Poland assured the Department, subsequent to the overthrow of the Carranza Government, that it was to be the policy of their respective Governments to follow the policy of this Government in the matter of the recognition of a government in Mexico, and therefore expressed the desire to be kept advised of the progress in the negotiations in this connection between the United States and Mexico. In like manner, Cuba has followed the policy of this Government and has also requested to be kept informed of developments. Accordingly, the Department has kept these five countries informed of the more important moves which have been made in the negotiations with Mexico and will continue to do so.

To the end that there may be no unnecessary delay in the communication of such information, I desire you to give the appropriate representatives of these countries in Mexico timely advice of such developments arising out of your conferences with the Mexican Commissioners as may be suitable and will not embarrass your negotiations.

A copy of this letter is being furnished to Mr. George T. Summerlin, Chargé d'Affaires of the Embassy in Mexico, who will cooperate with you in this matter.

I have [etc.] CHARLES E. HUGHES

711.1211/86b

The Secretary of State to United States Commissioner Warren[11]

WASHINGTON, *May 8, 1923.*

SIR: I have the honor to transmit herewith, for your information and guidance, in accordance with your mission to Mexico, a dossier

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[10] The same to United States Commissioner John Barton Payne (file no. 711.1211/90b).

[11] The same to United States Commissioner John Barton Payne (file no. 711.1211/86a).

of the principal correspondence between the Department of State and the administration now functioning in Mexico, in regard to the questions at issue between the United States and Mexico, together with other related papers and documents.

In order that you may appreciate the spirit and purpose of this Government in its policy toward Mexico, I may refer to the following statement which I made in an address upon this subject at Boston in October, 1922:

"Our feeling towards the Mexican people is one of entire friendliness and we deeply regret the necessity for the absence of diplomatic relations. We have had no desire to interfere in the internal concerns of Mexico. It is not for us to suggest what laws she shall have relating to the future, for Mexico, like ourselves, must be the judge of her domestic policy. We do, however, maintain one clear principle which lies at the foundation of international intercourse. When a nation has invited intercourse with other nations, has established laws under which investments have been lawfully made, contracts entered into and property rights acquired by citizens of other jurisdictions, it is an essential condition of international intercourse that international obligations shall be met and that there shall be no resort to confiscation and repudiation. We are not insistent on the form of any particular assurance to American citizens against confiscation, but we desire in the light of the experience of recent years the substance of such protection, and this is manifestly in the interest of permanent friendly relations. I have no desire to review the history of the past. The problem is a very simple one and its solution is wholly within Mexico's keeping."

It will be observed that the fundamental question at issue has been the safeguarding of American property rights in Mexico, especially as against a confiscatory application of the provisions of the Mexican Constitution of 1917.[12] In view of the fact that the recognition of the government of General Carranza had been based upon his explicit assurances that there would be no confiscation of American properties, and of the subsequent confiscatory measures actually taken, it was deemed important, in order to avoid a serious crisis, that there should be a clear understanding of the policy of General Obregon's regime before it was recognized and diplomatic relations were resumed. In answer to the objection that General Obregon could not enter into an agreement prior to recognition, I proposed, soon after the present Administration took office, that a treaty should be made between the United States and Mexico, containing appropriate provisions protecting valid titles of American citizens, which had been obtained prior to the Constitution of 1917. It was explained that the signing of this treaty between the President of the United States and the

[12] *Foreign Relations*, 1917, p. 951.

President of Mexico would in itself constitute recognition and thus the act of recognition would be coincident with the formal assurance of protection against confiscation. General Obregon, while profuse in personal statements, in the public press, and in his personal letters that the provisions of the Constitution of 1917 would not be applied retroactively, insisted that he was without authority to sign such a treaty. He urged that such a treaty would be in violation of the Constitution of Mexico, although it was intended to do no more than to give in a binding and suitable manner the assurances which General Obregon had been willing to give in personal interviews. It may be added that it has thus far been impossible to obtain from the Executive branch of the regime in Mexico any appropriate official action to provide the desired guarantees.

It is understood that there have long been pending *amparo* proceedings, or suits for injunction, before the Mexican Supreme Court, presenting practically all the questions that have been under discussion with respect to the retroactive application of Article 27 of the Constitution of 1917. In order to establish a judicial precedent in Mexico there must be five decisions of the Supreme Court upon the same point. Only one point of special importance has been covered by the decisions heretofore rendered and that is, in substance, that where a contract or lease has been made by the owner of land for the exploitation of subsoil mineral deposits this is to be regarded as an act establishing an acquired right in such subsoil deposits, and where there was such a legitimately acquired right prior to the Constitution of 1917 it is to be deemed to be inviolate. There have been five decisions upon this point.

In reaching its conclusion in the first of these cases (that of the Texas Company, August 30, 1921 [13]), the Supreme Court of Mexico held that Article 14 of the Mexican Constitution providing that "No retroactive law shall be enacted to the prejudice of any person whatsoever," did not apply to the Constitution itself, and hence did not prevent a retroactive application of constitutional provisions if that was their clear intent. It was further held that in order that there may be "a retroactive feature in law" two circumstances are necessary: "that it apply to the past and alter the past; and that it injure rights acquired under the protection of former laws." It was further held that the fourth paragraph of Article 27 of the Constitution of 1917 was not to be considered retroactive in letter or spirit since it did not injure "acquired rights," that is, "rights acquired legitimately before the first of May, 1917, the date on which the present Constitution became effective in its entirety." It is manifest that the interpretation

[13] *Foreign Relations*, 1921, vol. II, p. 464.

of these judicial expressions depends upon the significance of the term "acquired rights."

In the first of the five decisions in the case of the Texas Company the Supreme Court, after discussing the general proposition, said:

"In our Republic there have been in effect in successive periods the mining code of 1884, the Mining Law of June 4, 1892 and that of November 25, 1909, which latter in its second article granted the owner of the lands the right to explore and exploit oil freely in order to appropriate what he might find without the necessity of a permit from any authority, and also enable him to transmit the said rights as he would any other property either for a consideration or gratuitously. By virtue of this, Severiana Hernandez, widow of Martinez, and her sons, acting under that law and as owners of lot 36 of Zacamixtle, could explore and exploit oil in that land and also transfer their rights in the exercise of this faculty as they did in favor of Manuel S. Ravisé, by means of the contract contained in the deed of April 28, 1917, in which it appears that the grantors fixed and received a price higher than would have been paid them for the surface of the land because it was not sought to cultivate such surface or to build upon it, but to look for oil and to exploit same if found. So that the rights granted to the owners of the land by Article 2 of the said law of November 25, 1909, were converted into positive acts, and we therefore are treating of vested rights acquired by Ravisé as to the exploration of petroleum in the said Zacamixtle lot from the date of that contract, that is, before the present Constitution became *totally* effective. The purchaser, Manuel S. Ravisé, could transfer those rights, as he actually did, in favor of The Texas Company, S. A., by a deed dated September 21 of the same year, and it is obvious therefore that this company could in its turn enjoy the said rights as thus legally obtained."

The actual decisions go no further than to hold that there has been an "acquired right" in the circumstances above stated, other suits with broader claims having not yet been determined although it is believed that the Supreme Court of Mexico during the past two years could have determined them at any time. The conclusion is that no adequate protection has thus far been afforded by action of the judicial branch of the Government.

It has constantly been insisted by the Mexican authorities that the Mexican Congress had sole authority to regulate the application of the Constitution of 1917 and thus to give assurance of the nonretroactive character of the provisions in question. This was asserted as one of the bases for the contention that General Obregon, as President, did not have authority to give the assurances desired. Thus Mr. Pani, on behalf of the Mexican Foreign Office, in his note of February 9, 1922,[14] said:

[14] *Ibid.*, 1922, vol. II, p. 641.

"But even though the Federal [*Legislative*] Power has already eloquently manifested the same opinion, until the Organic Law of Constitutional Article 27 shall be promulgated, the signature of the President of the Republic placed on an international treaty which should fix interpretations of said Article would be equivalent to an undue invasion of the sphere of the Legislative Power, since provided that a constitutional text establishes a principle its particular effects may only be determined by the Organic Law which regulates it and this is still to be enacted by the Congress of the Union."

This was substantially repeated in Mr. Pani's note of May 4, 1922,[15] in which he said that the proposed treaty contained "interpretations of some of the precepts" of the Constitution of 1917 "not regulated yet by the Honorable Congress of the Union, which is the sole authority to which the Mexican people has delegated the power so to do."

Without entering into a discussion of the questions of Mexican jurisdiction which this statement suggests, it is sufficient to say that the Organic Law thus described has not yet been enacted and consequently no appropriate assurance has yet been given by the Legislative branch of the Mexican regime.

It should also be noted that the confiscatory measures under Article 27 of the Constitution of 1917 relate not simply to subsoil or mineral deposits, but to agrarian lands, the expropriation of which is authorized under numbered Paragraph VII of Article 27 of the Constitution on the basis of the tax valuation of the property plus ten per cent, with a valuation of the improvements subsequently made, which may be paid by State bonds. The taking on such a valuation and the payment in State bonds which are practically worthless, obviously amounts to confiscation. A considerable number of properties owned by American citizens have been taken under these provisions without the payment of compensation.

This Government has always appreciated the difficulties of the Mexican agrarian problem and has stated that it was deeply sensible of the important public policy that was to be prosecuted in securing the equitable distribution of lands and adequate opportunities for those who have been impoverished. But no reason is known, or right, for the prosecution of this policy in a manner which deprives American citizens of valid titles without being justly compensated. These expropriations of ranches and grazing lands have actually gone to the extreme of injustice in despoiling American owners. The Department of State did not fail to protest against the character of Mexican agrarian legislation when it was in the process of enactment in the Federal Congress of Mexico and in various State legislatures, and give warning that in the event justice were denied

[15] *Foreign Relations*, 1922, vol. II, p. 653.

American citizens, this Government would be forced to take the matter up for adjustment and reparation.

Aside from the questions raised by these confiscatory proceedings there are also outstanding claims against Mexico which are the subject of two proposed Claims Conventions.[16] The first of these Conventions relates to claims growing out of the injuries suffered by American citizens through revolutionary acts during the period existing from November 20, 1910, to May 31, 1920. The other Convention relates to the claims made by the citizens of each country against the other arising since the signing of the Claims Convention between the United States and Mexico of July 4, 1868, excluding the claims growing out of the recent revolutionary disturbances which are the subject of the first Convention.

It is not believed that any serious difference exists between the United States and the Mexican authorities with respect to these two Claims Conventions and it may be pointed out that, although there was opposition to the proposed treaty of amity and commerce with respect to the assurances of protection against confiscation, the Mexican authorities have indicated that they were disposed to sign the Claims Conventions with the understanding that such signing would carry with it full recognition.

There are other questions which have been taken up in negotiations between the Mexican authorities and private persons, including American nationals, looking to an adjustment of the claims of the bondholders or bankers representing the external debt of Mexico. This Government has not been a party to these negotiations, but it was gratified to learn that an agreement had been arranged in New York between the Secretary of the Treasury of Mexico and the International Committee of Bankers which provided guarantees satisfactory to the bondholders and also provided for the return of the National Railways of Mexico to the owning company of which also Americans are the principal creditors.

Negotiations have also been in progress, to which this Government has not been a party, between American citizens and representatives of the Mexican authorities for the purpose of finding an agreed basis upon which the owners would be protected in their holdings of petroleum properties and may be able to proceed to new developments.

On August 3, 1922,[17] under my instructions, a note was addressed by our representative at Mexico City, Mr. George T. Summerlin, to Mr. Pani reviewing the existing situation, the following points being made in conclusion:

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[16] The texts of the conventions, as signed, are printed *post*, pp. 555 and 560.

[17] See instruction of July 28, 1922, to the Chargé in Mexico, *Foreign Relations*, 1922, vol. II, p. 674.

(1) That the agreement for the adjustment of claims of the bondholders representing the external debt of Mexico was only tentative and that it still awaited the approval of General Obregon and ratification by the Mexican Congress.

(2) That no agreement with those interested in oil properties had yet been concluded.

(3) That no action had yet been taken by the Mexican Congress, to regulate the interpretation of the Constitution of 1917, so as to assure protection of the valid titles of American citizens.

(4) That the decisions of the Mexican Supreme Court were inadequate to protect American rights.

(5) That properties of American citizens had been seized and threatened with seizure under the guise of expropriation without provision for just compensation.

This note was not answered by Mr. Pani until eight months later, when, under date of March 31, 1923,[18] it was stated that the reply was delayed in order to await "the weighty evidence which would be presented by other measures that would soon have to be credited to his (General Obregon's) political policy." Examining the five points in the note of this Government, Mr. Pani said, in substance:

(1) That the agreement with the holders of the foreign debt had been ratified by General Obregon and the Mexican Congress and was now in full force and effect.

While this agreement may be in force, it is understood that the resumption of payments on the public debt and the return of the railways to their owners have not yet been effected.

(2) That while the negotiations with the American citizens interested in oil properties have not resulted in an agreement, still such an agreement would be "an unnecessary protection additional to that which the future Organic Law of Article 27 of the Constitution will afford."

(3) That the question of the protection of valid titles of American citizens "also will be solved by the future Organic Law of the Constitutional Article 27."

(4) That while the decisions of the Supreme Court of Mexico were naturally limited to the concrete cases which gave rise to them, still the Court had defined in an unmistakable manner the "nonretroactive character of Article 27 of the Constitution in that part relative to petroleum." It is said that "this obstacle therefore is removed."

In order to support this contention the language of the opinion of the Supreme Court is reviewed.

(5) That by the expropriation of agrarian lands, American interests have been affected only to a minor extent as compared with those of other nationals, especially Spanish nationals, and excuse is sought to be found in the difficulties created by past abuses. The efforts made to improve the administration of the agrarian laws are reviewed.

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[18] *Ante*, p. 523.

The substance of this communication, aside from the reference to the carrying out of the agreement as to the foreign debt and to the decisions of the Supreme Court of Mexico, is that no guaranty of protection has yet been given, and this Government is referred for such assurances to the "future Organic Law" and to future improvement in the administration of agrarian laws.

It thus appears that the questions which you are to discuss with the Mexican Commissioners relate:

First. To the obtaining of satisfactory assurances against confiscation of the subsoil interests in lands owned by American citizens prior to May 1st, 1917.

Second. To the restoration or proper reparation for the taking of lands owned by American citizens prior to May 1st, 1917.

Third. To the making of appropriate claims conventions.

It will be your task thoroughly to explore existing conditions in order to ascertain and report what practicable adjustment may be had, consistent with the principles which this Government has maintained in the interest of permanent friendly relations with Mexico. It is not my purpose to give rigid instructions, but rather to indicate the range of your inquiry, and certain points which should be considered, reserving for specific instructions the particular questions which may arise in the course of your negotiations.

I. *As to subsoil interests.*

It is not likely that General Obregon will agree to the proposed treaty of amity and commerce, and, on the other hand, we have made it clear that we are intent on the substance and not the form of the desired assurance. The precise point in question should be observed. It is understood that the American owners of lands, which may contain petroleum deposits, have not been dispossessed; the question is one of protection against the execution of confiscatory measures depriving them of their subsoil interests. These measures might take the form of a refusal to allow drilling without permits which would be granted in the discretion of the Mexican authorities and upon terms inconsistent with the recognition of rights of ownership. Or, the Mexican authorities, if the provisions of the Constitution were applied retroactively and it were held that the subsoil interests were thus the property of the nation, might grant such permits or licenses to persons other than the owners.

The inadequate protection afforded by the decisions of the Mexican Supreme Court has already been noted, but the broad assertion of Mr. Pani, in his last note, March 31, 1923, that the Court "had defined in an unmistakable manner the non-retroactive character of

Article 27 in the part relating to petroleum" affords a starting point for the discussion of the precise attitude of the Mexican authorities. If there is agreement upon what rights in subsoil interests were vested prior to May 1st, 1917 it would seem, in view of Mr. Pani's broad assertion, that it would not be difficult to reach an understanding upon this point.

There would seem to be no ground of difference, so far as subsoil interests had been made the subject, prior to May 1st, 1917, of contracts for the purpose of petroleum development. The question arises where American owners had a title to the land (through grant or lease) prior to May 1st, 1917, but had not yet undertaken exploration for petroleum or had not made contracts for that purpose. If it were asserted that in that case they had not acquired vested rights under Mexican law, this assertion would disclose the insincerity of the professions of the Mexican authorities, for there has been no mistake as to the point at issue and there would be no occasion for Mr. Pani to say that the Supreme Court "naturally limited its decisions to the concrete cases which gave rise to them" if the principle of non-retroactivity, which he invokes, had no application outside the circumstances of these concrete cases. Moreover, there is no foundation for a denial of a vested right on the part of the owner of the land in subsoil interests where these interests had not been reserved or separately dealt with. If it be said that under Spanish law mineral deposits were the property of the State, the answer is that the State by virtue of its sovereignty was competent to dispose of such interests and could make such disposition not only by particular grants but by establishing its laws under which complete title could be obtained. There is believed to be no room for question as to rights in petroleum deposits under Mexican law. The Mining Law of Mexico, promulgated on November 22, 1884, contained the following:

"ARTICLE 10. The following substances are the exclusive property of the owner of the land who may therefore develop and enjoy them without the formality of entry (*denuncio*) or special adjudication: . . . IV. Salts found on the surface, fresh and salt water, whether surface or subterranean; petroleum and gaseous springs . . ."

On June 4, 1892, a further mining code was enacted which contained the following provisions:

"ARTICLE 4. The owner of the land may freely work without a special concession in any case whatsoever the following mineral substances: mineral fuels, oils and mineral waters.

"ARTICLE 5. All mining property legally acquired, and such as may be hereafter acquired, in pursuance of this law, shall be irrevocable and perpetual."

A further mining code was enacted on November 25, 1909, containing the following clause:

"ARTICLE 2. The following substances are the exclusive property of the owner of the soil: I. ore bodies or deposits of mineral fuels, of whatever form or variety; II. ore bodies or deposits of bituminous substances."

It is believed that these are the only basic laws relative to the subject which were promulgated in the Republic of Mexico between the date of its independence until the adoption of the Constitution of 1917.

It will also be noted that in the decision of the Supreme Court in the Texas Case it was said:

"In our Republic there have been in effect, in successive periods, the mining code of 1884, the mining law of June 4, 1892 and that of November 25, 1909, which latter in its two articles granted owners of the lands the right to explore and exploit and freely to deal and appropriate what he might find without the necessity of a permit from any authority, and also enable him to transmit the said rights, as he would any other property, for a consideration or a gratuity." [19]

While the decisions of the Mexican Supreme Court, treated technically as a precedent, only passed upon the single point of a contract or lease granted by the owner of lands for the exploration of petroleum, still it is manifest that the owner of a full title to the land had, prior to May 1st, 1917, a vested right under the laws of Mexico in petroleum deposits and any attempt to deprive him of his right to utilize these deposits, because he had not made a contract with respect to them prior to May 1st, 1917, would be clearly confiscatory. If the Mexican authorities insist that in such cases the subsoil interests, formerly belonging to the owner of the land, have, by the Constitution of 1917, been appropriated by the nation, then there would be nothing in their protestations of intention to protect valid property rights. But if, on the other hand, the Mexican authorities are in accord with the view of this Government as above stated, then it would seem to be in order to determine what action on the part of the Mexican authorities would be appropriate.

Where the American owners have not been dispossessed of their lands, they should have assurance (1) against the granting of subsoil interests in their lands to others or license to others for petroleum exploration in their lands, and (2) against a demand that they should obtain permits for drilling in their own lands where these permits are not needed for any administrative purpose consistent with owner-

[19] For a more accurate translation of this sentence, see p. 539.

ship, but are required on the assumption that they can be withheld in the discretion of the authorities and thus that the opportunities of exploration can be denied by virtue of the alleged rights of the nation under the Constitution of 1917.

Instead of mere general statements about non-retroactivity it would seem that, expressing gratification for the principles announced, you should be able to obtain a definite application of these principles by proper assurances that no such licenses would be granted or such permits required.

There may also arise questions with regard to taxation which could be so extreme as to constitute confiscation, and while this Government is not a party to the negotiations which have taken place between the Mexican authorities and the owners of oil properties, it is important to ascertain to what point these negotiations have proceeded and the nature of difficulties which stand in the way of an agreement. This is mentioned because it is desired that a basis should be provided for a friendly intercourse which shall be as free as possible from serious controversies.

It is also important to ascertain what terms it is proposed to incorporate in the "future Organic Law" for the application of the Constitution of 1917 as to petroleum, and for this purpose to scrutinize the terms of the pending measure. This inquiry should not be made so as to suggest in any manner a desire to interfere with the domestic legislation of Mexico, but simply to ascertain its bearing upon the question under discussion, and that is with respect to the assurance of protection to valid titles held by American citizens prior to May 1st, 1917. The inquiry would thus have two aspects: (1) with respect to the affirmative protection contemplated by such an Organic Law, and (2) with respect to the absence of requirements in such a law which would operate to deny such protection.

If the Mexican authorities desire to give assurances against confiscatory measures, there is ample opportunity for them to do so without any procedure which could be regarded as derogatory to the dignity or sovereignty of Mexico.

II. *As to agrarian lands.*

There have been a score or more of cases in which property owned by American citizens, consisting of ranches, grazing lands, etc., have been expropriated without compensation. Mr. Pani's reference to this, in his note, is an apology without appropriate assurance of remedial action. He refers to the difficulties which confronted General Obregon in connection with the agrarian question, and says "that it was not possible on many occasions for official action to be confined within the limits of strict legality," when expropriation was made

for a distribution of land as commons, because of the violent consequences which might have resulted from delay. It is important to note that Mr. Pani says "That the Federal Executive, who honestly confesses the foregoing and sincerely regrets it, feels on the other hand the satisfaction of having reestablished peace in all the national territory, of having solved the principal financial difficulties, renewing service on the public debt, and of now being able to proceed to the legal indemnification for the expropriations effected." But this statement leaves much to be desired because in the same sentence Mr. Pani goes on to suggest an inadequate basis for the indemnification. Without reviewing the general statements made by Mr. Pani, it is sufficient to say that the question soon comes to the one of restoration or compensation upon a just basis.

It is important that you should indicate the full sympathy, as already expressed, of this Government to the efforts at a readjustment of large holding, so as to meet the natural demands of the people of Mexico. But this general policy furnishes no answer to the claim of the American citizen who has invested his money in ranch or grazing property in Mexico and has had it taken away without being paid for. This Government has in all cases urged that claims of American citizens should not be aggravated by their refusal to take advantage of any practical opportunities which might be open to them to obtain adjustments. In some cases efforts in this direction have been successful. You may well consider any practical steps that may be suggested which will give a reasonable solution of the problem. But when such endeavors prove fruitless the justice of the claim for restoration or compensation cannot be denied. It will be important for you to ascertain what the Mexican authorities propose in this connection.

It should be added, however, that the second proposed Claims Convention providing for the claims of the nationals of each country, is believed to be broad enough to cover the claims for the taking of properties taken in the execution of the agrarian laws where compensation has not been made. In this view Article 5 of the second Claims Convention becomes important because it provides that no claim shall be disallowed by the Commission by the application of the general principle of international law that legal remedies must be exhausted as a condition precedent to the validity of the claim. It is also important that there should be no doubt in the minds of the Mexican authorities that claims will be pressed where compensation has not been made and that payment in worthless State bonds or upon a basis of valuation utterly inadequate would not be regarded as discharging such claim.

III. *As to the Claims Conventions.*

There should be no difficulty in obtaining the signature of these Conventions in case it is decided to recognize the Obregon regime. The drafts of these Conventions, which have been placed in your hands, are those which were received from Mr. Pani on November 19, 1921 [20] as they have been amended by this Government, and these amendments, it is believed, will not raise any serious controversy. It should also be remembered that some time ago the Mexican authorities indicated their willingness to sign the first Claims Convention concurrently with recognition and to sign the second Claims Convention immediately thereafter. There is no objection to this course.

It will be understood, however, that these Conventions cannot be signed unless this Government recognizes the Government with which they are made. But this Government has always been ready to give this recognition if it obtained in a substantial manner the assurance that the Mexican Government recognized and would discharge its international obligations by giving adequate protection to valid titles of American citizens. While this question of recognition has been uppermost in public discussion, it is essentially a subordinate question, as the object of this Government is to oppose repudiation and confiscation and to refuse recognition to regimes which are bent upon such a policy. This Government does not regard stability as the sole question in determining whether a Government should be recognized. It is a question both of ability and disposition to discharge international obligations.

I hope you may find that the present regime in Mexico has a correct conception of what constitutes the valid rights of Americans in that country and is animated by a sincere desire to recognize and protect these rights, and such a course of action, commending the Mexican authorities to the esteem and confidence of all peoples cannot fail greatly to enhance the prosperity of the people of Mexico.

In conclusion, I may say that the assurance that is desired is one that will voice not simply a personal sentiment or intention, but will show that the good faith of Mexico, through her constituted authorities, is pledged to a course of conduct which will relieve this Government of the uncertainties and apprehensions of recent years, and will enable the people of the United States to give full play to their earnest desire to cultivate the most friendly relations with the people of their sister Republic.

I have [etc.] CHARLES E. HUGHES

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[20] *Foreign Relations*, 1921, vol. II, pp. 508–514. The texts of the conventions, as signed, are printed *post*, pp. 555 and 560.

711.1211/144a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, *August 12, 1923—3 p.m.*

110. For Warren and Payne.

Department deems it important that it should inform the Governments of Belgium, Great Britain, France and Cuba through their missions in Washington as to the results of your negotiations, as well as any action which the Government of the United States may plan to take because of the same, prior to any official announcement regarding the result of your negotiations including the provisions of the claims conventions. It is evident of course that such information cannot be supplied until you have brought the details to Washington.

It is the desire of the Department that you be guided by the above in all statements made public by you through newspapers or otherwise relative to your negotiations.

Likewise you will advise the Commissioners of Mexico that no public statement relative to the details of the negotiations will be made by you until you have returned to Washington and consulted with the Department.

HUGHES

711.1211/145 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

[Paraphrase]

MEXICO CITY, *August 13, 1923—3 p.m.*

[Received 11:05 p.m.]

77. Your telegram number 110, August 12. From Warren:

"We have already informed the representatives of the Governments mentioned that Department will advise them of results of the negotiations. An agreement has been reached with the authorities here that neither the minutes nor the proposed conventions shall be released until we return and some concerted action is agreed to by both Governments."

SUMMERLIN

711.1211/157b: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *August 22, 1923—5 p.m.*

119. Please give to Mr. Pani the following personal message in my name:

"My dear Mr. Pani: I have examined the report of the proceedings of the American and Mexican Commissioners, at Mexico City, closing August 15, 1923,[23] and I have submitted the same to President Coolidge. I have the honor to inform you that President Coolidge approves the statements and recommendations of the American Commissioners as therein set forth. I shall be glad to be advised by you that General Obregon approves the statements set forth in the said report as having been made by the Mexican Commissioners.

In the event that you are able so to advise me, I beg leave to suggest the following procedure with respect to the resumption of diplomatic relations. It seems to be advisable that we should agree upon a day on which the resumption of diplomatic relations should be formally announced. I suggest for this purpose Thursday, September 6, 1923, at noon. It is set forth in the report of the proceedings of the Commissioners that in the event that diplomatic relations are resumed, the two Conventions will be signed forthwith by duly authorized plenipotentiaries, and accordingly I suggest that the two Conventions as set forth in the report of the Commissioners shall be signed on Friday, September 7, 1923, at noon, the General Claims Convention at Washington, and the Special Claims Convention at Mexico City. Meanwhile, I shall forward appropriate power to Mexico City for the signing of the Special Claims Convention on September 7, and you can forward appropriate power to your representative at Washington for the signing of the General Claims Convention on the same day. It is of course understood, from what I have said above, that the note to be given by the United States Government, as recommended by the American Commissioners, will be given on the exchange of ratifications of the Conventions.

I shall be happy to be informed if this arrangement meets with your approval or of any modifications in it you may desire.

With cordial personal regards, I am, my dear Mr. Pani, Very sincerely yours, Charles E. Hughes."

In delivering this message to Mr. Pani please inform him that I think it desirable that the arrangement above suggested should be held in confidence until I have received his approval of it and until an identic announcement is issued at the same time in Washington and Mexico City, a form of which I shall take pleasure in submitting to Mr. Pani as soon as I have received his answer to this message.

HUGHES

[23] Not printed; see *Proceedings of the United States–Mexican Commission, Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925).

711.1211/163

The First Secretary of the Mexican Embassy (Téllez) to the Secretary of State

[Translation [24]]

WASHINGTON, *August 25, 1923.*

EXCELLENCY: Complying with instructions that have been transmitted to me by the Department of Foreign Affairs of my Government, I have the honour to enclose herewith a telegram that has just been received at this Embassy, addressed to Your Excellency by the Secretary of Foreign Relations.

I avail myself [etc.] MANUEL C. TÉLLEZ

[Enclosure—Telegram—Translation [24]]

The Mexican Minister for Foreign Affairs (Pani) to the Secretary of State

MEXICO, D.F., *August 24, 1923.*

MY DEAR MR. HUGHES: Through Mr. Summerlin, I have received your courteous message [25] by which you inform me, on the one hand, to have examined the minutes of the work of the Mexican-American Commission adjourned on the 15th of this month at this City, and to have submitted same to the President, and, on the other hand, that the President has deigned to approve the declarations and recommendations made by the American Commissioners. You suggest, furthermore, the procedure through which the reassumption of diplomatic relations could be accomplished, should President Obregon have approved the declarations of the Mexican Commissioners embodied in said minutes.

In reply to all this, upon expressing to you the gratification with which this Chancellery has noted President Coolidge's approval of his Commissioners' recommendations and upon informing you that President Obregón has also approved the declarations made by his Commissioners, I take the liberty to submit to your consideration some slight modifications to the procedure you have been good enough to propose—modifications which undoubtedly will greatly facilitate the attainment of the ends in view,—to wit:

a) That both Chancelleries simultaneously make the following or a similar statement to the press:

"The Governments of Mexico and that of the United States in view of the reports and recommendations that their respective Commissioners submitted as a result of the Mexico–American Conferences

[24] Translation submitted by the Mexican Embassy.

[25] See Department's telegram no. 119, Aug. 22, p. 550.

held at the City of Mexico from May 14th, 1923 to August 15, 1923, have resolved to renew diplomatic relations between them, and therefore, pending the appointment of Ambassadors, they are taking the necessary steps to accredit, formally, their respective Chargés d'Affaires."

I beg to suggest that this statement be made on Friday, August 31st, 1923, or before, at any hour you may deem convenient so that President Obregon may confine himself—in his Message to Congress upon its inaugural session on September 1st, 1923,—to announce this resolution without having to enter into details that perhaps would be best to omit for the time being.

b) Subsequently, that is to say, for instance, ten or fifteen days after the date on which the respective Chargés d'Affaires may have been formally accredited, that is, diplomatic relations having been reassumed, the Conventions shall be signed as suggested by you.

I make this suggestion being sincerely in the belief that the simultaneity or close proximity between the two acts aforesaid may unjustly give the former the erroneous impression of being conditional, as the Mexican Government since November 1921, spontaneously proposed the signing of similar conventions and, as furthermore, is unnecessary since the Conventions that are to be signed could not come into force before the date of the opening of the United States Senate.

Resolved as it is, the reassumption of diplomatic relations, the modifications proposed—without any sacrifice for American interests or for the purposes of the United States Government—tend only to assure the greatest and most firm cordiality in the future relations between the two Governments permitting them to develop on the solid basis of reciprocal confidence, which is the only possible foundation of true friendship.

I am [etc.] A. J. Pani

711.1211/158a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, *August 25, 1923—6 p.m.*

121. Mr. Téllez called today and delivered a telegram addressed to me by Mr. Pani in which he states that General Obregon has approved the declarations made by the Mexican Commissioners of the American–Mexican Commission which adjourned on the 15th of this month and makes the following suggestions in modification of the procedure suggested in the Department's 119 August 22, 5 P.M.

"(*a*) That both chancelleries simultaneously make the following or a similar statement to the press: 'The governments of Mexico and

that of the United States in view of the reports and recommendations that their respective commissioners submitted as a result of the Mexico–American conferences held at the City of Mexico from May 14, 1923 to August 15, 1923 have resolved to renew diplomatic relations between them, and therefore, pending the appointment of ambassadors, they are taking the necessary steps to accredit, formally, their respective Chargés d'Affaires.' I beg to suggest that this statement be made on Friday, August 31, 1923, or before, at any hour you may deem convenient so that President Obregon may confine himself in his message to Congress upon its inaugural session on September 1, 1923 to announce this resolution without having to enter into details that perhaps would be best to omit for the time being. (*b*) Subsequently, that is to say, for instance, ten or fifteen days after the date on which the respective Chargés d'Affaires may have been formally accredited, that is, diplomatic relations having been resumed, the conventions shall be signed as suggested by you."

As to (*a*) I agreed and this announcement will be made substituting in the statement given out here "The Government of the United States and the Government of Mexico" and "American–Mexican Conferences" for the similar expressions in the statement above.

I also agreed that this statement be made on Friday August 31 at noon and so informed Mr. Téllez. I am quite agreeable that General Obregon should have the opportunity desired. I suggested that the formal accrediting by the governments of their respective Chargés d'Affaires be made at noon Monday September 3 and that the accrediting be done by telegram.

As to (*b*) I explained to Mr. Téllez that I thought ten or fifteen days too long and suggested that if the announcement be made of resumption of diplomatic relations as above described on August 31 the conventions could be signed on September 7 as originally suggested, that is to say one week after the announcement. I trust that this will be satisfactory.

Inform Mr. Pani of the foregoing and telegraph his reply.

HUGHES

711.1211/161 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO CITY, *August 27, 1923—3 p.m.*
[Received 9:20 p.m.]

85. Mr. Pani replied in an informal note dated today that the suggestions made in your telegram number 121, August 25, 6 p.m., are entirely satisfactory.

In this connection it has been stated to me privately that Mr. Pani would like to make the official declaration here of the resumption of relations on Friday, August 31, at noon, Washington time.

Please instruct.

SUMMERLIN

711.1211/174e

The Acting Secretary of State to the Belgian Chargé (D'Hermalle)[27]

AIDE-MEMOIRE

The Acting Secretary of State informs the Belgian Chargé d'Affaires that the following procedure has been arranged between this Government and the Mexican authorities for the resumption of formal diplomatic relations between the United States and Mexico.

(1) The following statement will be released in Washington and Mexico City for publication on Friday, August 31, at noon Washington time:

"The Government of the United States and the Government of Mexico in view of the reports and recommendations that their respective commissioners submitted as a result of the American-Mexican conferences held at the City of Mexico from May 14, 1923, to August 15, 1923, have resolved to renew diplomatic relations between them, and therefore, pending the appointment of ambassadors, they are taking the necessary steps to accredit, formally, their respective Chargés d'Affaires."

(2) The Government of the United States will formally accredit a Chargé d'Affaires to the Government of Mexico, and the Government of Mexico will formally accredit a Chargé d'Affaires to the Government of the United States at noon on Monday, September 3.

(3) The General Claims Convention negotiated by the American-Mexican Commission which recently completed its conferences in Mexico City will be signed at Washington on September 7 next by the duly accredited plenipotentiaries of the United States and Mexico, and the Special Claims Convention negotiated by that commission will be similarly signed at Mexico City on the same date.

WASHINGTON, *August 28, 1923.*

711.1211/161 : Telegram

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *August 28, 1923—3 p.m.*

124. Your 85, August 27, 3 P.M. It is entirely satisfactory to the Department for Mr. Pani to release the statement embraced in the subquotation of the Department's 121 August 25, 6 P.M. simultaneously with the Department on Friday August 31 at noon Washington time.

PHILLIPS

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[27] The same, *mutatis mutandis*, to the Cuban, French, British, and Polish diplomatic representatives in Washington (file nos. 711.1211/174b, c, d, f).

123 Su 6/113 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO CITY, *September 3, 1923—1 p.m.*

[Received 6:50 p.m.]

91. Your telegram no. 129, August 31, noon.[28] Your telegraphic letter of credence was presented to and accepted by Mexican Minister for Foreign Affairs at noon today.

SUMMERLIN

701.1211/313a : Telegram

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *September 4, 1923—1 p.m.*

134. Mr. Téllez presented his letter of credence as Chargé d'Affaires *ad interim* at noon September 3 and it was accepted by the Department.

PHILLIPS

Treaty Series No. 678

General Claims Convention between the United States of America and Mexico, Signed at Washington, September 8, 1923[29]

The United States of America and the United Mexican States, desiring to settle and adjust amicably claims by the citizens of each country against the other since the signing on July 4, 1868, of the Claims Convention entered into between the two countries (without including the claims for losses or damages growing out of the revolutionary disturbances in Mexico which form the basis of another and separate Convention), have decided to enter into a Convention with this object, and to this end have nominated as their Plenipotentaries:

The President of the United States of America:

The Honorables Charles Evans Hughes, Secretary of State of the United States of America, Charles Beecher Warren and John Barton Payne, and

The President of the United Mexican States:

Señor Don Manuel C. Téllez, Chargé d'Affaires ad interim of the United Mexican States at Washington;

Who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following Articles:

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[28] Not printed.

[29] In English and Spanish; Spanish text not printed. Ratification advised by the Senate, Jan. 23, 1924; ratified by the President, Feb. 4, 1924; ratified by Mexico, Feb. 16, 1924; ratifications exchanged at Washington, Mar. 1, 1924; proclaimed by the President, Mar. 3, 1924.

ARTICLE I

All claims (except those arising from acts incident to the recent revolutions) against Mexico of citizens of the United States, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties, and all claims against the United States of America by citizens of Mexico, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties; all claims for losses or damages suffered by citizens of either country by reason of losses or damages suffered by any corporation, company, association or partnership in which such citizens have or have had a substantial and bona fide interest, provided an allotment to the claimant by the corporation, company, association or partnership of his proportion of the loss or damage suffered is presented by the claimant to the Commission hereinafter referred to; and all claims for losses or damages originating from acts of officials or others acting for either Government and resulting in injustice, and which claims may have been presented to either Government for its interposition with the other since the signing of the Claims Convention concluded between the two countries July 4, 1868, and which have remained unsettled, as well as any other such claims which may be filed by either Government within the time hereinafter specified, shall be submitted to a Commission consisting of three members for decision in accordance with the principles of international law, justice and equity.

Such Commission shall be constituted as follows: one member shall be appointed by the President of the United States; one by the President of the United Mexican States; and the third, who shall preside over the Commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within two months from the exchange of ratifications of this Convention in naming such third member, then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article XLIX of the Convention for the pacific settlement of international disputes concluded at The Hague on October 18, 1907. In case of the death, absence or incapacity of any member of the Commission, or in the event of a member omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

ARTICLE II

The Commissioners so named shall meet at Washington for organization within six months after the exchange of the ratifications of

this Convention, and each member of the Commission, before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide, according to the best of his judgment and in accordance with the principles of international law, justice and equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the Commission.

The Commission may fix the time and place of its subsequent meetings, either in the United States or in Mexico, as may be convenient, subject always to the special instructions of the two Governments.

Article III

In general, the Commission shall adopt as the standard for its proceedings the rules of procedure established by the Mixed Claims Commission created under the Claims Convention between the two Governments signed July 4, 1868, in so far as such rules are not in conflict with any provision of this Convention. The Commission, however, shall have authority by the decision of the majority of its members to establish such other rules for its proceedings as may be deemed expedient and necessary, not in conflict with any of the provisions of this Convention.

Each Government may nominate and appoint agents and counsel who will be authorized to present to the Commission, orally or in writing, all the arguments deemed expedient in favor of or against any claim. The agents or counsel of either Government may offer to the Commission any documents, affidavits, interrogatories or other evidence desired in favor of or against any claim and shall have the right to examine witnesses under oath or affirmation before the Commission, in accordance with such rules of procedure as the Commission shall adopt.

The decision of the majority of the members of the Commission shall be the decision of the Commission.

The language in which the proceedings shall be conducted and recorded shall be English or Spanish.

Article IV

The Commission shall keep an accurate record of the claims and cases submitted, and minutes of its proceedings with the dates thereof. To this end, each Government may appoint a Secretary; these Secretaries shall act as joint Secretaries of the Commission and shall be subject to its instructions. Each Government may also appoint and employ any necessary assistant secretaries and such other assistance

as deemed necessary. The Commission may also appoint and employ any persons necessary to assist in the performance of its duties.

Article V

The High Contracting Parties, being desirous of effecting an equitable settlement of the claims of their respective citizens thereby affording them just and adequate compensation for their losses or damages, agree that no claim shall be disallowed or rejected by the Commission by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

Article VI

Every such claim for loss or damage accruing prior to the signing of this Convention, shall be filed with the Commission within one year from the date of its first meeting, unless in any case reasons for the delay, satisfactory to the majority of the Commissioners, shall be established, and in any such case the period for filing the claim may be extended not to exceed six additional months.

The Commission shall be bound to hear, examine and decide, within three years from the date of its first meeting, all the claims filed, except as hereinafter provided in Article VII.

Four months after the date of the first meeting of the Commissioners, and every four months thereafter, the Commission shall submit to each Government a report setting forth in detail its work to date, including a statement of the claims filed, claims heard and claims decided. The Commission shall be bound to decide any claim heard and examined within six months after the conclusion of the hearing of such claim and to record its decision.

Article VII

The High Contracting Parties agree that any claim for loss or damage accruing after the signing of this Convention, may be filed by either Government with the Commission at any time during the period fixed in Article VI for the duration of the Commission; and it is agreed between the two Governments that should any such claim or claims be filed with the Commission prior to the termination of said Commission, and not be decided as specified in Article VI, the two Governments will by agreement extend the time within which the Commission may hear, examine and decide such claim or claims so filed for such a period as may be required for the Commission to hear, examine and decide such claim or claims.

Article VIII

The High Contracting Parties agree to consider the decision of the Commission as final and conclusive upon each claim decided, and to give full effect to such decisions. They further agree to consider the result of the proceedings of the Commission as a full, perfect and final settlement of every such claim upon either Government, for loss or damage sustained prior to the exchange of the ratifications of the present Convention (except as to claims arising from revolutionary disturbances and referred to in the preamble hereof). And they further agree that every such claim, whether or not filed and presented to the notice of, made, preferred or submitted to such Commission shall from and after the conclusion of the proceedings of the Commission be considered and treated as fully settled, barred and thenceforth inadmissible, provided the claim filed has been heard and decided.

Article IX

The total amount awarded in all the cases decided in favor of the citizens of one country shall be deducted from the total amount awarded to the citizens of the other country and the balance shall be paid at Washington or at the City of Mexico, in gold coin or its equivalent to the Government of the country in favor of whose citizens the greater amount may have been awarded.

In any case the Commission may decide that international law, justice and equity require that a property or right be restored to the claimant in addition to the amount awarded in any such case for all loss or damage sustained prior to the restitution. In any case where the Commission so decides the restitution of the property or right shall be made by the Government affected after such decision has been made, as hereinbelow provided. The Commission, however, shall at the same time determine the value of the property or right decreed to be restored and the Government affected may elect to pay the amount so fixed after the decision is made rather than to restore the property or right to the claimant.

In the event the Government affected should elect to pay the amount fixed as the value of the property or right decreed to be restored, it is agreed that notice thereof will be filed with the Commission within thirty days after the decision and that the amount fixed as the value of the property or right shall be paid immediately. Upon failure so to pay the amount the property or right shall be restored immediately.

Article X

Each Government shall pay its own Commissioner and bear its own expenses. The expenses of the Commission including the salary

of the third Commissioner shall be defrayed in equal proportions by the two Governments.

ARTICLE XI

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions. Ratifications of this Convention shall be exchanged in Washington as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate at Washington this eighth day of September, 1923.

CHARLES EVANS HUGHES	[SEAL]
CHARLES BEECHER WARREN	[SEAL]
JOHN BARTON PAYNE	[SEAL]
MANUEL C. TÉLLEZ	[SEAL]

Treaty Series No. 676

Special Claims Convention between the United States of America and Mexico, Signed at Mexico City, September 10, 1923 [30]

SPECIAL CLAIMS CONVENTION

The United States of America and the United Mexican States, desiring to settle and adjust amicably claims arising from losses or damages suffered by American citizens through revolutionary acts within the period from November 20, 1910, to May 31, 1920, inclusive, have decided to enter into a Convention for that purpose, and to this end have nominated as their Plenipotentiaries:

The President of the United States:

George T. Summerlin Chargé d'Affaires ad-interim of the United States of America in Mexico.

The President of the United Mexican States:

Alberto J. Pani, Secretary of State for Foreign Affairs.

Who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I

All claims against Mexico of citizens of the United States, whether corporations, companies, associations, partnerships or individuals,

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[30] In English and Spanish; Spanish text not printed. Ratification advised by the Senate, Jan. 23, 1924; ratified by the President, Feb. 4, 1924; ratified by Mexico, Feb. 16, 1924; ratifications exchanged at Mexico City, Feb. 19, 1924; proclaimed by the President, Feb. 23, 1924.

for losses or damages suffered by persons or by their properties during the revolutions and disturbed conditions which existed in Mexico, covering the period from November 20, 1910, to May 31, 1920, inclusive, including losses or damages suffered by citizens of the United States by reason of losses or damages suffered by any corporation, company, association or partnership in which citizens of the United States have or have had a substantial and bona fide interest, provided an allotment to the American claimant by the corporation, company, association or partnership of his proportion of the loss or damage is presented by the claimant to the Commission hereinafter referred to, and which claims have been presented to the United States for its interposition with Mexico, as well as any other such claims which may be presented within the time hereinafter specified, shall be submitted to a Commission consisting of three members.

Such Commission shall be constituted as follows: one member shall be appointed by the President of the United States; one by the President of the United Mexican States; and the third, who shall preside over the Commission, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within two months from the exchange of ratifications of this Convention in naming such third member, then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague described in Article 49 of the Convention for the Pacific Settlement of International Disputes concluded at The Hague on October 18, 1907. In case of the death, absence or incapacity of any member of the Commission, or in the event of a member omitting or ceasing to act as such, the same procedure shall be followed for filling the vacancy as was followed in appointing him.

Article II

The Commissioners so named shall meet at Mexico City within six months after the exchange of the ratifications of this Convention, and each member of the Commission, before entering upon his duties, shall make and subscribe a solemn declaration stating that he will carefully and impartially examine and decide, according to the best of his judgment and in accordance with the principles of justice and equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the Commission.

The Mexican Government desires that the claims shall be so decided because Mexico wishes that her responsibility shall not be fixed according to the generally accepted rules and principles of international law, but *ex gratia* feels morally bound to make full indemnification and agrees, therefore, that it will be sufficient that

it be established that the alleged loss or damage in any case was sustained and was due to any of the causes enumerated in Article III hereof.

The Commission may fix the time and place of its subsequent meetings, as may be convenient, subject always to the special instructions of the two Governments.

Article III

The claims which the Commission shall examine and decide are those which arose during the revolutions and disturbed conditions which existed in Mexico covering the period from November 20, 1910, to May 31, 1920, inclusive, and were due to any act by the following forces:

(1) By forces of a Government *de jure* or *de facto*.

(2) By revolutionary forces as a result of the triumph of whose cause governments *de facto* or *de jure* have been established, or by revolutionary forces opposed to them.

(3) By forces arising from the disjunction of the forces mentioned in the next preceding paragraph up to the time when the government *de jure* established itself as a result of a particular revolution.

(4) By federal forces that were disbanded, and

(5) By mutinies or mobs, or insurrectionary forces other than those referred to under subdivisions (2), (3) and (4) above, or by bandits, provided in any case it be established that the appropriate authorities omitted to take reasonable measures to suppress insurrectionists, mobs or bandits, or treated them with lenity or were in fault in other particulars.

Article IV

In general, the Commission shall adopt as the standard for its proceedings the rules of procedure established by the Mixed Claims Commission created under the Claims Convention between the two Governments signed July 4, 1868, in so far as such rules are not in conflict with any provision of this Convention. The Commission, however, shall have authority by the decision of the majority of its members to establish such other rules for its proceedings as may be deemed expedient and necessary, not in conflict with any of the provisions of this Convention.

Each Government may nominate and appoint agents and counsel who will be authorized to present to the Commission, orally or in writing, all the arguments deemed expedient in favor of or against any claim. The agents or counsel of either Government may offer to the Commission any documents, affidavits, interrogatories or other evidence desired in favor of or against any claim and shall have the

right to examine witnesses under oath or affirmation before the Commission, in accordance with such rules of procedure as the Commission shall adopt.

The decision of the majority of the members of the Commission shall be the decision of the Commission.

The language in which the proceedings shall be conducted and recorded shall be Spanish or English.

Article V

The Commission shall keep an accurate record of the claims and cases submitted, and minutes of its proceedings with the dates thereof. To this end, each Government may appoint a Secretary; these Secretaries shall act as joint Secretaries of the Commission and shall be subject to its instructions. Each Government may also appoint and employ any necessary assistant secretaries and such other assistance as deemed necessary. The Commission may also appoint and employ any persons necessary to assist in the performance of its duties.

Article VI

Since the Mexican Government desires to arrive at an equitable settlement of the claims of the citizens of the United States and to grant them a just and adequate compensation for their losses or damages, the Mexican Government agrees that the Commission shall not disallow or reject any claim by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

Article VII

Every claim shall be filed with the Commission within two years from the date of its first meeting, unless in any case reasons for the delay, satisfactory to the majority of the Commissioners, shall be established, and in any such case the period for filing the claim may be extended not to exceed six additional months.

The Commission shall be bound to hear, examine and decide, within five years from the date of its first meeting, all the claims filed.

Four months after the date of the first meeting of the Commissioners, and every four months thereafter, the Commission shall submit to each Government a report setting forth in detail its work to date, including a statement of the claims filed, claims heard and claims decided. The Commission shall be bound to decide any claim heard and examined within six months after the conclusion of the hearing of such claim and to record its decision.

ARTICLE VIII

The High Contracting Parties agree to consider the decision of the Commission as final and conclusive upon each claim decided, and to give full effect to such decisions. They further agree to consider the result of the proceedings of the Commission as a full, perfect and final settlement of every such claim upon the Mexican Government, arising from any of the causes set forth in Article III of this Convention. And they further agree that every such claim, whether or not filed and presented to the notice of, made, preferred or submitted to such Commission shall from and after the conclusion of the proceedings of the Commission be considered and treated as fully settled, barred and thenceforth inadmissible, provided the claim filed has been heard and decided.

ARTICLE IX

The total amount awarded to claimants shall be paid in gold coin or its equivalent by the Mexican Government to the Government of the United States at Washington.

ARTICLE X

Each Government shall pay its own Commissioner and bear its own expenses. The expenses of the Commission including the salary of the third Commissioner shall be defrayed in equal proportions by the two Governments.

ARTICLE XI

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions. Ratifications of this Convention shall be exchanged in Mexico City as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate at Mexico City this tenth day of September, 1923.

GEORGE T. SUMMERLIN [SEAL]
A. J. PANI [SEAL]

711.1211/199a

The Secretary of State to the Chargé in Mexico (Summerlin)

No. 2539 WASHINGTON, *November 7, 1923.*

SIR: The Department encloses herewith, for your information and the confidential files of the Embassy, two volumes containing signed

copies of the minutes in English and Spanish of the recent conferences in Mexico City between the Commissioners representing the United States and the Mexican Commissioners.

In this connection, there is also enclosed, for your information and discreet use, a copy of a statement which the Department has made public with regard to the General and Special Claims Conventions which are recorded in the minutes. In view of the fact that these Conventions are to be submitted to the United States Senate for its assent, the Department is not in a position to make any further statement with respect to them at this particular time. The Department will advise you from time to time of any additional important information which it may give out regarding the minutes of the conferences.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

[Enclosure]

Public Statement by the Secretary of State, September 8, 1923, with regard to the General and Special Claims Conventions

The Secretary of State made the following statement:

"A General Claims Convention between the United States and Mexico for the settlement of all claims by the citizens of each country against the other arising since the signing on July 4, 1868, of the Claims Convention entered into between the two countries (not including claims which are embraced within the terms of a Special Claims Convention relating to losses through revolutionary acts) was signed at Washington at one o'clock today. The Secretary of State and Messrs. Charles Beecher Warren and John Barton Payne signed on behalf of the United States, and Senor Manuel C. Tellez, Charge d'Affaires of Mexico, in Washington, on behalf of Mexico.

"These two conventions were negotiated by the American–Mexican Commission which convened in Mexico City on May 14, 1923, and terminated its sessions on August 15, 1923, and are subject to ratification in accordance with the respective constitutions of the United States and Mexico.

"The General Claims Commission and the Special Claims Commission which are to be created under the terms of these conventions are to be composed of three members each, one to be appointed by the President of the United States, one by the President of Mexico. and the third by mutual agreement between the two governments, or in case of failure to agree, by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at

The Hague. The Special Claims Commission is to meet at Mexico City and the General Claims Commission at Washington within six months after the exchange of ratifications of the respective conventions, and the Commissions have the power to fix the time and place of their subsequent meetings.

"The conventions provide for the appointment by each government of the necessary agents and counsel to present arguments in favor of or against any claim, and the decision of the majority of the members of the commission is to be the decision of the commission.

"Both conventions provide that no claim shall be disallowed or rejected by the application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity or allowance of any claim.

"The General Claims Commission has jurisdiction over all claims of the citizens of either country against the other for losses or damages suffered by persons or by their properties, whether such citizens are corporations, companies, associations, partnerships or individuals, as well as over claims by citizens of either country growing out of losses or damages suffered by any corporation, company, association, or partnership in which such citizens have or have had an interest provided an allotment to the claimant of his proportion of the loss or damage is presented to the commission, and all claims for losses or damages originating from acts of officials or others acting for either government and resulting in injustice.

"Claims are to be filed with the General Claims Commission within one year from the date of its first meeting unless satisfactory reasons for delay are presented, in which case the period may be extended not to exceed six months. All claims filed are to be decided within three years from the date of the first meeting of the commission. However, if a claim can not be decided within this period, the two governments will extend the time for deciding such claim for such a period as may be necessary for this purpose. Claims for losses or damages accruing after the signing of the convention may be filed by either government at any time during the period fixed for the duration of the commission.

"It is provided that the General Claims Commission may decide that international law, justice and equity require that a property or right be restored to the claimant in addition to the amount awarded in any such case for all loss or damage sustained prior to the restitution. However, the government affected by such decision may elect to pay the value of the property or right as determined by the commission rather than to restore the property or right to the claimant, and if so, it shall file notice thereof with the commission within

thirty days after the decision and shall immediately pay the amount fixed as the value of the property or right. If it fails so to pay this amount, the property or right is to be restored immediately.

"The Special Claims Convention for the settlement of all claims arising from losses or damages suffered by American citizens through revolutionary acts accompanying the disturbed conditions in Mexico within the period from November 20, 1910, to May 31, 1920, inclusive, is to be signed in Mexico City.

"The Special Claims Commission created by this convention is charged with examining and deciding all claims which resulted from any act by the following Mexican forces:

(1) By forces of a Government *de jure* or *de facto*.

(2) By revolutionary forces as a result of the triumph of whose cause governments *de facto* and *de jure* have been established, or by revolutionary forces opposed to them.

(3) By forces arising from the disjunction of the forces mentioned in (2) up to the time when the government *de jure* established itself as a result of a particular revolution.

(4) By federal forces that were disbanded, and

(5) By mutinies or mobs, or insurrectionary forces other than those referred to under (2), (3), and (4) above, or by bandits, provided in any case it be established that the appropriate authorities omitted to take reasonable measures to suppress insurrectionists, mobs or bandits, or treated them with lenity or were in fault in other particulars.

"Claims presented for the consideration of the Special Claims Commission are to be filed within two years from the date of its first meeting unless satisfactory reasons for delay are presented, in which case the period may be extended not to exceed six months. All claims filed are to be decided within five years from the date of the first meeting of the commission. The total amount awarded to claimants is to be paid in gold coin or its equivalent by the Mexican Government to the Government of the United States."

SALE OF WAR MATERIAL TO THE GOVERNMENT OF MEXICO

812.34/64 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, *December 15, 1923—6 p.m.*
[Received December 16—1:07 a.m.]

135. Executive requests through Foreign Office that the Embassy inquire whether the United States will consider immediate sale to the Mexican Government of two discarded naval cruisers.

SUMMERLIN

812.34/64 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *December 17, 1923—5 p.m.*

196. Your 135 December 15, 6 p.m.

Inform Foreign Office that under Article 18 of the Treaty of Limitation of Naval Armament signed at Washington [31] this Government prohibited from sale of any vessel of war to any foreign government. You may communicate to Foreign Office text of Article.

HUGHES

812.34/64¼

Memorandum by the Secretary of State of a Conversation with the Mexican Chargé (Téllez), December 26, 1923

Mr. Tellez said that Mr. Ramon Ross [32] had intended to call but had been detained by illness. Mr. Tellez referred to his request made at a preceding interview to be informed whether the United States would be willing to sell vessels which could be used as vessels of war. The Secretary again referred to the Naval Treaty and said that while that treaty only related to the disposition of vessels of war, still the selling of merchant craft with the knowledge that they were acquired and immediately to be used as vessels of war would conflict with the spirit of the treaty which the United States Government was very desirous to have maintained in its full vigor.

Mr. Tellez then said that there were at Fort Sam Houston at San Antonio, Texas, a considerable number of rifles and he asked whether the Government would be willing to sell them. There were also some guns which they desired to purchase which could be put upon ships now owned by the Mexican Government. The Secretary said that he would be glad to consider that matter and would take it up with the President and let Mr. Tellez know the conclusion.

812.24/197 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, *December 28, 1923—12 noon.*

[Received 8 p.m.]

101. Acting general manager International Railways informs me that his New York office has authorized him to sell Mexican Gov-

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[31] *Foreign Relations*, 1922, vol. I, p. 247.

[32] Mexican Commissioner on confidential mission in the United States.

ernment 1,000 barrels of oil per week at Ayutla if there is no objection made by the Government of Guatemala or the American Minister. Please instruct me by cable.

GEISSLER

812.24/200 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, *December 29, 1923—11 a.m.*

71. Your 101, December 28, noon.

In the understanding that the sales are to be made to the recognized Government of Mexico, the Department perceives no objection.

HUGHES

812.34/64½

Memorandum by the Secretary of State of a Conversation with the Mexican Chargé (Téllez) and the Mexican Commissioner on Confidential Mission in the United States (Ross), December 29, 1923

The Secretary expressed his regret that Mr. Ramon Ross, on account of his illness, was not able to be present at the Secretary's last interview with Mr. Tellez. The Secretary then had explained that it was felt to be contrary to the spirit of the Naval Treaty for this Government to dispose of vessels to another Government which were to be immediately used as vessels of war. The Secretary, however, had taken up with the President the request of Mr. Tellez, made at the last interview, for the sale of rifles which were at Fort Sam Houston, San Antonio, Texas, to the Mexican Government and this request was being favorably considered. The Secretary said that the matter was now in the course of communication to the War Department and it was expected that an early reply would be received.

. . . . . .

812.24/199a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, *December 29, 1923—6 p.m.*

220. For your information.

The Department has today given following statement to the press:

"The Mexican Government has presented a request to this Government to sell it a limited quantity of war material. This Government has expressed its willingness to make the sale, in view of the relations between this Government and the Mexican Government, which

was formally recognized last September,[33] and of the importance of the maintenance of stability and orderly constitutional procedure in the neighboring Republic."

Inform Foreign Office and say that it was deemed necessary to issue the statement to avoid possible misinterpretations by the press.

HUGHES

812.24/198

Señor Enrique Seldner to the Secretary of State

WASHINGTON, *31 December, 1923.*

SIR: The undersigned, Consul General of the Provisional Government of Mexico, in New York, and in charge, for the time being, of the interests of that Government in the United States, has the honor to inform the Department of State that his Government, as a result of its operations, now controls the greater part of the Mexican Republic, including all ports on the Gulf Coast, save one, as well as all ports on the Pacific, except those in Sonora and Sinaloa. The major part of the national military and naval forces are sustaining the Provisional Government, which expects, within a brief period, completely to exercise dominion over the entire country.

In the midst of the campaign now in progress, the Government of the undersigned views with grave concern reports in the press that the Government of the United States has determined to extend active and material aid to the administration of President Alvaro Obregon, by supplying him with rifles, ammunition and, possibly, airplanes on a deferred payment basis, amounting, practically, to a donation, for use against the revolutionary movement of which Ex-President Adolfo de la Huerta is the chief, and the purpose of which is to resist the unconstitutional imposition of General Plutarco Elias Calles as president of the republic, by General Obregon, in defiance of all law and the free right of suffrage. In event the reports in the press described above are true, and munitions of war are to be delivered as proposed, the undersigned is instructed by his Government to inform the Department of State that such will only serve to prolong the period of bloodshed essential to the overthrow of the Obregon administration, which, however constitutionally installed in power, has utterly refused and failed to comply with its solemn duty to the people, the great body of whom sustain the principles upon which the present armed movement is based.

In view of the foregoing facts, the Government of the undersigned hereby begs to submit its respectful protest against the delivery of munitions of war of whatsoever kind to the Obregon government by

[33] See telegrams, p. 555.

the Government of the United States, with which to make war on the Mexican people, thus tending to disturb those friendly and neighborly feelings and sentiments which should exist between the Government and people of Mexico and those of the United States, which the Government of the undersigned is so anxious to sustain and to cultivate.

The undersigned begs [etc.][34]

ENRIQUE SELDNER

AUTHORIZED STATEMENT BY THE FEDERAL DISTRICT ATTORNEY IN BOSTON THAT THE UNITED STATES HAD NOT CEASED TO RECOGNIZE MEXICO AS AN "INTERNATIONAL PERSON"

311.1254 V 65/1

The Secretary of State to the Attorney General

WASHINGTON, *May 15, 1923.*

SIR: I have the honor to inform you that I am advised by Messrs. Hardin and Hess, 50 Pine Street, New York, that the United States of Mexico, for which this firm is general counsel in New York, has instituted in the State courts of Massachusetts an action against Mariano Viamonte y Fernandez to sequestrate certain property which the defendant has in Massachusetts, which is claimed by the United States of Mexico as its property. It is alleged that this property was taken by Mr. Viamonte from Mexico after it had been received by him in his capacity as Chief Clerk of the Department of Special Taxes in Mexico City, and that he concealed the fact of such taking by certain entries in the book of accounts kept by him.

The Department is further informed that the United States of Mexico is represented in this litigation by the firm of Ropes, Gray, Boyden and Perkins of Boston, that the defendant has questioned the right of the United States of Mexico to maintain the action, and that the preliminary objections to the jurisdiction will soon be heard.

Messrs. Hardin and Hess have requested that you be asked to have the United States attorney appear at an appropriate occasion upon the hearings of such objections and make a statement to the Court, and the Department would be pleased if you will instruct the attorney to make the following statement on the occasion mentioned:

"The Government of the United States has not accorded recognition to the Administration now functioning in Mexico, and, therefore, has at present no official relations with that Administration. This fact, however, does not affect the recognition of the Mexican State itself, which for years has been recognized by the United

[34] This communication does not appear to have been answered.

States as an 'international person' as that term is understood in international practice. The existing situation simply is that there is no official intercourse between the two States."

I have [etc.]

For the Secretary of State:
WILLIAM PHILLIPS
Under Secretary

311.1254 V 65/2

The Attorney General to the Secretary of State

WASHINGTON, *May 17, 1923.*

SIR: I have the honor to acknowledge receipt of your letter of the 15th instant, requesting that the United States Attorney at Boston, appear in the case brought by the United States of Mexico against Mariano Viamonte y Fernandez, in the Massachusetts State Court, and make the statement contained in your letter, in regard to the relations existing between the United States government and the government functioning in Mexico. I have directed the United States Attorney to appear in the State Court and make the statement suggested by you and leave with the court a copy of such statement.

Respectfully,

For the Attorney General,
ALBERT OTTINGER
Assistant Attorney General

311.1254 V 65/1

The Secretary of State to the Clerk of the Superior Court of Essex County, Massachusetts

WASHINGTON, *July 14, 1923.*

SIR: I beg to request that you be good enough to forward to the Department, for its information, a copy of the recent decision of Justice William Cushing Wait in the case of the *United States of Mexico* v. *Mariano Viamonte y Fernandez.*

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS
Under Secretary

311.1254 V 65/3

Decision Rendered by the Justice of the Superior Court of Essex County, Massachusetts [35]

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. SUPERIOR COURT In Equity

United States of Mexico *vs* Fernandez

This cause came on to be heard upon a plea in abatement, a motion to dismiss and a demurrer. It was argued by counsel. I find that the United States of Mexico is an "international person." That the property alleged to have been taken is the property of said person and not of any individuals of a government of said person and is within the Commonwealth of Massachusetts. That the government of the United States of America has not accorded recognition to the Administration now functioning in Mexico; but that intercourse is in fact maintained between the peoples of this United States of America and of the United States of Mexico. That consuls commissioned by the existing Administration in Mexico function in various places in this United States of America, lacking only the formal exequatur from the government of the United States of America. That an embassy is so maintained at Washington in the District of Columbia lacking only said formal recognition.

I take judicial notice that negotiations for formal recognition by the government of the United States of America of the administration now functioning in the United States of Mexico and so functioning at the date of the filing of this bill are in progress; and I take the law to be that recognition if accorded will relate to a period prior to the filing of this bill and to the acts complained of. I find that persons acting in fact within these United States of America generally in matters affecting the property and interests of the international person, the United States of Mexico, other than in diplomatic relations with the United States of America, authorized the bringing of this proceeding and the appearance of the counsel for the plaintiff. Accordingly I overrule the plea in abatement but without prejudice to raising the question by answer and upon a trial of the merits whether the United States of Mexico may maintain this bill. I deny the motion to dismiss; and overrule the demurrer,

[35] Received at the Department without covering letter on July 18, 1923.

paragraph one of the bill having been amended before the hearing on the demurrer.

WILLIAM CUSHING WAIT
Justice of the Superior Court

1923 June 29.

A true copy.

Attest:— [SEAL] GEO. R. LORD
Ass't. Clerk

SUIT BY THE OLIVER AMERICAN TRADING COMPANY AGAINST THE GOVERNMENT OF MEXICO IN THE UNITED STATES DISTRICT COURT FOR SOUTHERN NEW YORK [36]

702.1211/1218

The Secretary of State to the United States District Judge at New York (Knox)

WASHINGTON, *September 8, 1923.*

MY DEAR JUDGE KNOX: Referring to your letter of July 11th last,[37] with respect to the suit of the Oliver American Trading Company, Inc., against the United States of Mexico, in which you requested me to advise you of developments with respect to negotiations between the American and Mexican Commissioners, I am glad to inform you that those negotiations have reached a happy termination and have resulted in the recognition by this Government of the existing Government of Mexico. On Friday, August 31, 1923, it was formally announced by the Department of State that the two Governments "have resolved to renew diplomatic relations between them, and therefore, pending the appointment of ambassadors, they are taking the necessary steps to accredit, formally, their respective Chargés d'Affaires", and on September 3d Mr. George T. Summerlin was formally accredited Chargé d'Affaires ad interim at Mexico City, and Mr. Manuel C. Téllez, the Mexican representative in Washington, presented his letter of credence as Chargé d'Affaires ad interim on the same date.

Faithfully yours,

CHARLES E. HUGHES

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[36] Continued from *Foreign Relations*, 1922, vol. II, pp. 709–717.
[37] Not printed.

702.1211/1245

The Secretary of State to the United States District Judge at New York (Knox)

WASHINGTON, *October 8, 1923.*

MY DEAR JUDGE KNOX: Permit me to inform you that under date of October 1, 1923, Mr. Howard T. Oliver of the Oliver American Trading Company, Inc. wrote me at length in regard to the case of his Company against the Government of the United States of Mexico and National Railways of Mexico, and requested definite answers to certain specific questions put to me by counsel for the Company in a communication under date of September 14.[38] These questions had reference to several aspects of the recognition by this Government of the Government of Mexico.

I feel it my duty to inform you that I am advising Mr. Oliver that it seemed to be a sufficient response to the inquiries made in behalf of his Company to say that the recognition recently accorded the Government of Mexico by the Government of the United States was complete and unconditional.

I am [etc.] CHARLES E. HUGHES

702.1211/1249

Mr. Ernest Angell of Messrs. Hardin & Hess to the Secretary of State

NEW YORK, *October 19, 1923.*
[Received October 20.]

SIR: We address you with further reference to the case of *Oliver American Trading Company, Inc., plaintiff*, vs. *The Government of the United States of Mexico and National Railways of Mexico, defendants*, still pending in the United States District Court for the Southern District of New York, wherein we represent the defendants. Judge Knox has lately rendered a decision granting defendants' motion for dismissal of the action and the vacating of the attachment on the ground that the defendants are entitled to the immunity accorded a friendly foreign sovereign. You may remember that I discussed some features of this case with you in Washington last May. We enclose copies of the opinion for your information.[39] No order thereon has yet been entered.

Plaintiff has now served formal notice that it will appeal the decision by writ of error to the United States Supreme Court [40] and

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[38] Letters not printed.

[39] *New York Law Journal*, Oct. 18, 1923, p. 209.

[40] See 264 U. S. 440. The case was transferred to the Circuit Court of Appeals for the Second Circuit, which sustained the decision of the District Court; see 5 Fed. (2d) 659.

that at the time of the entry of an order on Judge Knox' decision, plaintiff will ask for a stay pending final determination by the Supreme Court. Such stay would normally have the effect of maintaining the existing levies of attachment on the property of the Government of the United States of Mexico in New York City for many months to come.

In view of the formal and complete recognition by the Government of the United States of the Government of the United States of Mexico, this litigation is, we venture to suggest, no longer private in character, and we believe the State Department should be fully advised of all further steps in the proceedings in order that appropriate action may be taken.

On behalf of the Government of the United States of Mexico we respectfully request that through the customary channels the United States Attorney in New York be requested to appear before Judge Knox, in conjunction with ourselves as attorneys of record for the defendants, upon the plaintiff's application for a stay and for the maintenance of the existing levies of attachment on defendants' property. The question of whether the property of a friendly foreign sovereign should be continued in sequestration by the operation of supersedeas, as in the ordinary action at law between private litigants, is a question of public international law. We will urge upon the court the contention that as no process may issue against such a foreign government duly recognized, so therefore no process against its property should be continued in force by supersedeas under international comity and practice, and that any present order, stay or supersedeas continuing the attachment would be in the nature of a deliberate affront to the foreign sovereign. We are confident the Department will desire to consider the implications of any such step and to express its views in the usual manner at the hearing.

Plaintiff's application will probably be heard about the middle of next week and if the United States Attorney here will put himself in touch with us we will be pleased to cooperate with him.

Very respectfully yours,

ERNEST ANGELL

702.1211/1249

The Secretary of State to Mr. Ernest Angell of Messrs. Hardin & Hess

WASHINGTON, *October 23, 1923.*

SIR: I beg to acknowledge the receipt of your letter of October 19, 1923, in which, referring to the case of the *Oliver American*

Trading Company, Inc., v. *the Government of the United States of Mexico and National Railways of Mexico* still pending in the United States District Court for the Southern District of New York, you make mention of Judge Knox' recent decision for dismissal of the action and vacating of the attachment. You state that plaintiff has served notice that it will appeal the decision by writ of error to the Supreme Court of the United States, and that at the time of the entry of an order on Judge Knox' decision plaintiff will ask for a stay pending final determination by the Supreme Court. You ask that, through the customary channels, the United States Attorney at New York be requested to appear before Judge Knox, in conjunction with yourselves as attorneys of record for the defendants, upon the plaintiff's application for a stay and for the maintenance of the existing levies of attachment on defendants' property.

By way of response, I have to inform you that, as Judge Knox is doubtless fully advised of the pertinent facts and is cognizant of the relevant law, I deem it unnecessary for the Department to comply with your request.

I am [etc.] CHARLES E. HUGHES

MOROCCO

DISCUSSION OF THE FUTURE STATUS OF TANGIER

881.00/842 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *September 22, 1923—4 p.m.*
[Received September 22—2:41 p.m.]

405. Incorrect news story appeared yesterday stating that the Foreign Office had been visited by a representative of this Embassy presumably to discuss informally the future status of Tangier; and today the statement appears that the Counselor of the Embassy presented the Foreign Office yesterday with an identical note to France, Great Britain and Spain urging the principle of the open door. Yesterday the Spanish Ambassador sent a Secretary to inquire if the published report was true and if this Embassy had any special instructions on Tangier that could be communicated to him. The Foreign Office here has not yet been advised that the Embassy in Washington has received a note, as described, from the Department.

HARVEY

881.00/844a : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *September 24, 1923—4 p.m.*

261. Your No. 405, September 22, 4 p.m.

For your information and for such discreet use as you may wish to make:

At press conference on September 20, 1923, the question was asked whether the United States had sent a note to the interested powers in regard to Tangier. I replied that the Government of the United States had taken no recent action on this matter, but that some time ago it had sent a note which contained a statement in regard to the principle of the open door in Tangier.

I was referring to the note presented to the French Foreign Office by the American Embassy in France under an instruction from this Department of September 21, 1922.[1] The note dealt with the construction and administration of the harbor works at Tangier and was a protest against this concession as being contrary to the provisions of the Act of Algeciras.[2]

PHILLIPS

881.00/844 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *October 1, 1923—5 p. m.*
[Received 6:50 p.m.]

417. I am informed that the French Delegate,[3] quite unexpectedly to the Foreign Office, has put forward a new proposal which may turn out to be a basis for agreement. In broad outline it is that, while the French Government is not willing to relinquish the claim that the Sultan of Morocco, by reason of his individual sovereignty over the whole of the Sherifian Empire under French protection, is the ruler of the Tangier zone, France is now prepared to accept the internationalization of the local municipal administration of Tangier, as well as the internationalization of the port and the introduction of mixed tribunals. It is proposed further that the Sultan's edicts are not to be operative in Tangier until they shall have been accepted by the representatives of the powers. This telegram has been repeated to Tangier, Paris and Madrid.

HARVEY

881.00/851 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *October 14, 1923—noon.*
[Received October 15—9:20 a.m.]

438. My 436, October 12, 1 p.m.[4] The Foreign Office has issued the following statement:

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[1] *Foreign Relations*, 1922, vol. II, p. 723.
[2] The text of the Act of Algeciras is printed *ibid.*, 1906, pt. 2, p. 1495.
[3] The French representative sent to London to confer with regard to the status of Tangier.
[4] Not printed.

"His Majesty's Government have accepted the invitation of the French Government to send representatives to the conference at Paris on October 22nd on the subject of the future status of Tangier.

The conference will be limited to representatives of Great Britain, France and Spain. The British representatives will be Mr. Arnold Robertson, His Majesty's Agent and Consul General at Tangier and Mr. Gerald Villiers, Counsellor at the Foreign Office."

HARVEY

881.00/851 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *October 20, 1923—1 p.m.*

290. Your 438, October 14th, noon.

Please bring the following informally to the attention of the Foreign Office as soon as possible and repeat for similar action to Paris and Madrid:

"This Government has noted with interest that the experts now conferring in London with regard to the question of Tangier have decided that a plenary conference for the determination of the future status of Tangier should be called.

While this Government has no political interest in Morocco, it is a party to the Act of Algeciras under which act nationals of the United States enjoy certain rights and privileges in Tangier. This Government takes this occasion to remind the Governments participating in the Conference regarding Tangier that its fundamental interest in Tangier is to maintain the principle of the Open Door, that is the equality of commercial opportunity and to secure adequate protection for the life, liberty and property of its citizens as stated in its ratification of the Act of Algeciras. It presumes that at the forthcoming conference nothing will be done to interfere with the maintenance of the principle above mentioned or the rights or interests of the United States."

HUGHES

881.00/855

The Department of State to the Portuguese Legation

MEMORANDUM

In replying to the Portuguese Chargé d'Affaires' Memorandum of October 22,[48a] requesting information concerning the attitude of the Government of the United States toward the proposed plenary conference to discuss the future status of Tangier, the Department of State wishes to inform him that it has taken occasion recently to remind the Governments participating in the conference that while

[48a] Not printed.

it has no political interest in Morocco it is fundamentally interested in maintaining the principle of the Open Door in Tangier, that is as stated in its ratification of the Act of Algeciras in securing equality of commercial opportunity and adequate protection for the life, liberty and property of its citizens.

This Government, of course, presumes that nothing will be done at the forthcoming conference to interfere with the principle above mentioned or with the rights and interests of the United States.[5]

WASHINGTON, *October 23, 1923.*

881.00/854 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, *October 23, 1923—4 p.m.*

[Received 5:18 p.m.]

419. Contents of your 290, October 20, 1 p.m. to London, repeated to this Embassy, brought to the attention of the Foreign Office today which gives verbal assurances pending written reply that American citizens in Tangier will continue to enjoy rights and privileges provided for in the Act of Algeciras.

Foreign Office informs me that French Government proposes to suggest to signatories of the Act of Algeciras that diplomatic agencies at Tangier be abolished and that consuls general stationed at Rabat be substituted. The signatory powers will besides maintain consuls at Tangier who will represent their respective governments in the internationalized local municipal administration.

The rest of the French program would appear to coincide with the statements contained in telegram no. 417, October 1, 6 p.m. to the Department from London Embassy.

Repeated to London and Madrid.

WHITEHOUSE

881.00/854 : Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

[Paraphrase]

WASHINGTON, *October 27, 1923—2 p.m.*

309. Department refers to telegram from France of October 23, 4 p.m., repeated to you by Paris Embassy and desires you to inquire orally and informally of the Foreign Office in regard to the British attitude toward the French program for Tangier, particularly in

[5] In reply to a verbal inquiry by the Italian Ambassador, a memorandum in the same terms was sent him on Oct. 24.

regard to the French proposal set forth in paragraph two of the Embassy's telegram.

In your conversation you are not to make use of the following confidential information. It is the Department's opinion that a protectorate seems to contemplate the retention of the international personality of the protected country, this retention being shown by permitting it to continue to participate to some extent in its own foreign relations. When the French established a protectorate over Morocco in 1912 and the British over Egypt in 1914, neither power appeared to oppose the operation of this principle. If a protecting state or group of states seeks to abolish this international personality of its ward by doing away completely with the right of the protected state to have diplomatic intercourse with other countries, the protector would, it seems, be obliged to annex the territory concerned and in this way make known definitely the assertion of the protector's supremacy as territorial sovereign. From this point of view and without asserting any interest in preventing such annexation over the territory embracing Tangier, the United States, in the present instance, has a definite right to insist that, pending actual annexation, the existing diplomatic relationship between the United States and the Shereefian Government of Morocco continue unmolested.

The Government of the United States enjoys its right of diplomatic representation in Morocco by virtue first, of its treaty with Morocco of September 16, 1836; second, the general convention on protection of July 3, 1880; and third, the convention of Algeciras of April 7, 1906.

HUGHES

881.00/862

The Chargé in France (Whitehouse) to the Secretary of State

No. 3637 PARIS, *October 30, 1923.*

[Received November 15.]

SIR: With reference to the Department's telegram No. 290 of October 20, 1 P.M., to London, repeated to this Embassy, in which I was instructed to bring informally to the attention of the Foreign Office a statement setting forth the attitude of the United States Government in regard to the Conference of Experts for the determination of the future status of Tangier, and to my telegram No. 419 of October 23, 4 P.M., stating that the Ministry of Foreign Affairs gave verbal assurances, pending a written reply, that American citizens in Tangier would continue to enjoy the favorable privileges

provided for in the Act of Algeciras, I have the honor to transmit herewith enclosed copy and translation of a Note dated October 26th,[6] from the Ministry of Foreign Affairs, in reply to the Embassy's Note above referred to.

It will be seen that the French Government gives assurances that it will maintain in Tangier the principle of the Open Door, and that the results of the Conference will be submitted to all the signatories of the Act of Algeciras with the exception of Germany and Austria.

In conclusion the Note adds that the French Government hopes that the United States having adhered to the draft convention relative to Tangier, "it will consent to give its natural sequence to the recognition which it made of the Protectorate of the French Republic over Morocco and that it will also cancel the American capitulations in the French zone of the Sherifian Empire."

I have [etc.] SHELDON WHITEHOUSE

881.00/857 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *October 31, 1923—10 a.m.*
[Received 10:15 a.m.]

477. Through the Foreign Office I have learned informally that the question of abolishing the diplomatic agencies at Tangier has not been brought up before the Conference and for that reason the British Government has not had it under consideration. It seems to the Foreign Office, however, that a natural consequence of the complete internationalization of Tangier would be, by its broad nature, to eliminate diplomatic envoys to Morocco to be stationed at Tangier, though of course other officials of the foreign powers would be represented in the administration. It was pointed out to me in addition that no power that was signatory to the convention of Algeciras is bound by the decisions of the present conference and that they would be given full opportunity to approve or disapprove if and when a formula is adopted. I have been assured that the British Government is endeavoring to obtain complete and independent internationalization. In opposition the French will attempt to create a nominal internationalization really under French control.

HARVEY

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[6] Not printed.

881.00/862 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, *November 28, 1923—5 p.m.*

429. Your despatch No. 3637, October 30, 1923.

Department is desirous that French Government be made aware informally that this Government does not consider the cancellation of American capitulatory rights in the French Zone of Morocco to be a natural sequence to our recognition of French Protectorate in part of Morocco, or to our suggested adherence to a convention purporting to deal solely with internationalization of City of Tangier.

Repeat to London as Department's 359 and Madrid as 82 for their information.

HUGHES

881.00/868 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *December 1, 1923—3 p. m.*

[Received December 2—1:12 a.m.]

487. Your 429, November 28, 1 [5] p.m. Contents communicated to the Ministry of Foreign Affairs which expressed the hope that when the draft of convention is submitted to the United States Government it will see its way clear to cancelation of American capitulatory rights.

Your 432, November 30, 5 p.m.[1] The Foreign Office informs me that the draft of convention regarding Tangier will be ready within 15 days and will at once be submitted to the signatories of the Act of Algeciras. The convention provides for the native population of Tangier to be administered by the Sultan's representatives, the municipal administration to be determined by the assembly composed of the representatives of the signatory powers to the Algeciras Act with the exception of Germany and Austria. These are to have the broadest powers. Mixed courts modeled on those of Egypt, the members of which will be French, British and Spanish, will be substituted for the consular courts. There is no question of a substitution of any kind to the international judicial compilation. A very small strip of the international zone containing 900 inhabitants is to be allocated to Spain. As previously stated it is proposed to abolish the diplomatic agencies and substitute therefor career consulates three representing the powers signatory to the Algeciras Act [garbled group].

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[1] Not printed.

The Foreign Office gives every assurance that the rights of American citizens and the policy of the open door will be strictly maintained.

HERRICK

881.00/868 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *December 7, 1923—5 p.m.*

445. Your 487, December 1st, 3 p.m.

You will informally convey to Foreign Office that if the Convention regarding Tangier contains the clauses which are outlined in your telegram, the provisions will not be satisfactory to this Government.

HUGHES

881.00/875 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *December 19, 1923—6 p.m.*
[Received December 19—4:20 p.m.]

523. Department's 445, December 7, 5 p.m. complied with immediately upon receipt. The Tangier convention was signed yesterday by the French, British and Spanish delegates. The Spanish delegate however signed *ad referendum* to permit his Government to study the text. I am transmitting by next pouch the draft of convention.

Foreign Office informs me that the construction of the port of Tangier will be put up to public tender in conformity with the terms of the Act of Algeciras. The port will eventually be administered by the International Company hence Foreign Office states that if it should be desired it will doubtless be possible to arrange for American participation therein.

HERRICK

CONSENT BY THE UNITED STATES TO THE PAYMENT OF CONSUMPTION TAXES BY AMERICAN CITIZENS AND PROTÉGÉS IN THE SPANISH AND FRENCH ZONES

881.512/26

The Diplomatic Agent and Consul General at Tangier (Denning) to the Secretary of State

No. 117 TANGIER, *March 23, 1923.*
[Received April 10.]

SIR: I have the honor to enclose herewith translation of a communication recently received at this Agency from the Spanish High Commissioner at Tetuan, and to report briefly in this regard.

Some days ago, the agent in Tetuan of one of our Protégés for Signal Services Rendered, Mr. David S. Bergel, complained of the fact that the Spanish Customs Authorities at Rio Martin, the port of Tetuan, refused to release a certain quantity of sugar which Mr. Bergel was importing from the United States, unless a 10 per cent consumption tax was paid, to the application of which tax to its *ressortissants* the United States has never even been requested to give its consent, so far as this Agency is aware.

Since the United States has not recognized the so-called Spanish Zone of Influence in Morocco, this Agency did not consider it proper to communicate directly with the Spanish High Commissioner at Tetuan, in order to protest against the action of the Spanish Customs Authorities mentioned above and to request that the shipment of American sugar to our Protégé, Mr. Bergel, be released to him. . . .

. . . . . .

I have [etc.] J. M. DENNING

[Enclosure—Translation]

The Spanish High Commissioner at Tetuan (Silvela) to the American Diplomatic Agent and Consul General (Denning)

TETUAN, *March 8, 1923.*

EXCELLENCY: By "Dahir" published in the "Official Bulletin" of July 10, 1922, a tax upon the consumption of Sugar, Tea and Coffee, having been put into force in the Zone of the Spanish Protectorate in Morocco, and the Government of His Majesty, feeling assured that the Government of the United States, with whom Spain is united by such friendly relations, will not raise obstacles in the way of whatever reforms are deemed necessary by Spain, entertains the hope that in this particular matter, the Diplomatic Representative of the Government of Washington in Tangier, will kindly give his assent to the application of the taxation in question, and will issue instructions to American citizens and protégés to submit to the dispositions concerning the payment thereof; and for which this High Commission, in the name of the Madrid Government, begs to express its acknowledgment, in anticipation.

I further esteem that the channel employed to obtain the assent of the Government of the United States will be sufficient under the circumstances, but if it should not be so, the Madrid Government is prepared to address itself directly to Washington.

I avail myself [etc.] LUIS SILVELA

881.512/26 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

[Paraphrase]

WASHINGTON, *April 21, 1923—6 p.m.*

11. Agency's despatch no. 117 of March 23.

Is it your opinion that the collection of the consumption tax would affect American citizens more unfavorably than it would the nationals of the most favored nation? Reply by cable.

HUGHES

881.512/28 : Telegram

The Diplomatic Agent and Consul General at Tangier (Denning) to the Secretary of State

[Paraphrase]

TANGIER, *April 28, 1923—6 p.m.*

[Received April 28—1:55 p.m.]

Department's no. 11, April 21, 6 p.m.

The British vice consul at Tetuan confirms that Spanish authorities have given orders that all sums paid heretofore by British subjects and protégés as a tax on the consumption of sugar, tea, and coffee should be returned to them. In the future all consignments of those articles are to be turned over to them without payment of the tax until His Britannic Majesty's Government shall have recognized its legality.

The consumption tax continues to be collected from all American citizens and protégés, with discrimination against American products as a result.

DENNING

881.512/28

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

No. 260 WASHINGTON, *May 8, 1923.*

SIR: Reference is made to your confidential despatch, number 117, dated March 23, 1923, and to your telegram of April 28, 6 p.m., relating to the collection of a 10 percent consumption tax from American citizens and protégés in the Spanish Zone of Influence in Morocco.

On April 16, 1923, the Spanish Ambassador in Washington left a memorandum with the State Department,[8] expressing the request of the Spanish Government that this Government consent to the collection of the tax in question.

A note has today been addressed to the Spanish Ambassador[8] in reply to his memorandum of April 16, 1923, stating that this Government is prepared to consent to the application of this tax at such a time as it is applied alike to the nationals and protégés of all Governments and acquiesced in by the Governments concerned.

In this connection, the Ambassador has been advised that this Department is informed that the British Government has not yet given its consent to the collection of this tax from its nationals and protégés. The note adds that, therefore, until such consent is given by all interested Governments, the Government of the United States expresses the hope that His Majesty's Government will find it agreeable to instruct its appropriate authorities in Morocco to exempt American citizens and protégés from the payment of this tax and, moreover, to reimburse such citizens and protégés for any amounts which may have been paid heretofore.

You may informally advise your British colleague of this Government's position in this matter and request him to be good enough to advise you at such a time as his Government consents to the collection of this tax from its nationals and protégés in the Spanish Zone whereupon you are instructed to inform the Department immediately by cable.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

881.512/30 : Telegram

The Chargé at Tangier (Rand) to the Secretary of State

TANGIER, *June 26, 1923—3 p.m.*
[Received 3:12 p.m.]

Reference Department's 260 of May 8, 1923. Informed by British Chargé d'Affaires that, since Spanish authorities have deposited with British consul all sums which British claimed were illegally levied, King's regulation dated June 2nd, 1923, has been issued ordering British subjects and protégés to pay tax. Netherland nationals and protégés not paying tax.

RAND

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[8] Not printed.

881.512/30 : Telegram

The Secretary of State to the Chargé at Tangier (Rand)

WASHINGTON, *June 29, 1923—1 p.m.*

14. Your June 26, 3 p.m.

Confer informally with your Dutch colleague and with the representatives of other Governments whose nationals and protégés are not paying the consumption tax in the sense of the last paragraph of the Department's instruction number 260, May 8, 1923, and report by cable.

HUGHES

881.512/31 : Telegram

The Chargé at Tangier (Rand) to the Secretary of State

TANGIER, *July 4, 1923—1 p.m.*

[Received July 4—10:35 a.m.]

Department's number 14, June 29, 3 [*1*] p.m., received July 1st via wireless. Agency informed by Dutch Minister that he has recommended to his Government payment by Dutch nationals and protégés of consumption taxes but that he has not yet received his Government's reply. Am also informed that nationals and protégés of other governments are now paying taxes. Respectfully recommend Department authorize me to direct American nationals and protégés to pay without awaiting action by Dutch Government.

RAND

881.512/31 : Telegram

The Secretary of State to the Chargé at Tangier (Rand)

WASHINGTON, *July 11, 1923—4 p.m.*

17. Your July 4, 1 p.m.

Before complying with your recommendation, Department desires your opinion by cable of feasibility and method to be followed in securing deposit with Agency of amount of taxes improperly collected from American citizens and protégés similar to course pursued by British mentioned in your June 26, 3 p.m.

HUGHES

881.512/32 : Telegram

The Chargé at Tangier (Rand) to the Secretary of State

TANGIER, *July 16, 1923—6 p.m.*
[Received 7:17 p.m.]

Department's number 17, July 11, 4 p.m.

The only taxes improperly collected from American protégés were paid by Bergel. Spanish authorities have now returned amount these taxes directly to Bergel. A shipment of Holland gin consigned to American Semsar Cohen of Larache now being held at customhouse for payment of consumption tax.

Direct communication between this Agency and authorities Spanish zone difficult as explained in Agency's despatch number 117 of March 23rd, 1923. In my opinion considerable time in settling this question would be saved if I am authorized to assure Spanish Agency here that upon release of Cohen's shipment and if meanwhile no further attempts are made to collect consumption taxes from American protégés, latter will be instructed to pay such taxes.

RAND

881.512/32 : Telegram

The Secretary of State to the Chargé at Tangier (Rand)

WASHINGTON, *July 19, 1923—4 p.m.*

19. Your July 16, 6 p.m.

Inform Spanish Agency at Tangier as well as American citizens and protégés that neither Department nor your agency will be able to support refusal of latter to pay consumption tax from date of release of Cohen's shipment, provided they are not meanwhile subjected to this tax.

Advise interested colleagues. Spanish Embassy here informed.

HUGHES

881.512/32 : Telegram

The Secretary of State to the Chargé at Tangier (Rand)

[Paraphrase]

WASHINGTON, *July 31, 1923—3 p.m.*

20. The Spanish Ambassador, acting under instructions from his Government, today informed the Department that the consumption tax in question does not apply to Semsar Cohen's shipment of gin and that there has been no attempt made to collect tax on this shipment. If the facts are as stated you are instructed to act in the sense of Department's telegraphic instruction no. 19, July 19, 4 p.m., without reference to the qualifying clause which relates to Cohen's shipment; but

you will add that this Government reserves its jurisdiction over those persons who may be accused of violating the provisions of the *dahir* establishing consumption tax on coffee, tea and sugar. Cable action taken.

Any request that Cohen may make for your assistance in matter of other taxation which the Spanish authorities may be trying to impose improperly would, it appears to the Department, be the subject for separate representations.

HUGHES

881.512/35 : Telegram

The Chargé at Tangier (Rand) to the Secretary of State

TANGIER, *August 13, 1923—7 p.m.*
[Received 8:32 p.m.]

Your number 20 of July 31, 3 p.m. Alcohol is not included among articles taxed by *dahir* originally in question relating to tea, sugar, coffee but appears to be subjected to taxation under a distinct *dahir* of anterior date. I have therefore construed the Department's latest instruction in the sense that the first-mentioned tax be applied to shipments of American nationals, while considering Cohen's gin shipment possible cause of separate representations looking to securing request by the Spanish authorities for the American Government's sanction of alcohol tax *dahir* prior to applying the provisions thereof to Americans. American protégés and citizens have therefore been advised that as from August 1st their refusal to pay consumption tax on tea, coffee, sugar will not be supported. I have likewise informed interested colleagues of this action and have been advised by the Dutch Agent that he has now been authorized to apply the tax to Netherland subjects.

RAND

881.512/38

The Chargé at Tangier (Rand) to the Secretary of State

No. 169 TANGIER, *September 14, 1923.*
[Received October 2.]

SIR: The arrangements recently made with the Spanish Authorities in Morocco, by means of conversations between the Department and the Spanish Ambassador in Washington, in regard to the payment by American citizens and protégés of consumption taxes imposed on certain commodities, having led me to an examination of the position of American *ressortissants* in regard to similar taxation

in the Zone of the French Protectorate, I have the honor to report as follows:—

There is in the files of the Agency a communication from the French Resident-General, dated January 4th, 1923, a translation of which together with translations of the "Dahirs" mentioned therein, is annexed hereto.[10] The French Resident-General requests this Agency to adopt the measures required to make applicable, to American *ressortissants*, the provisions of the "Dahirs" referred to (eventually promulgated on January 8th, 1923) increasing the rates of sumptuary taxes created by "Dahirs" of anterior date.

The Agency's reply to the Resident-General, under date of January 12th, 1923, was to the effect that the legislation in question would be submitted to the United States Government for its consideration and instructions. Such action, however, appears by some inadvertence, not to have been taken.

Although, as shown by the annexes hereto, the Franco-Shereefian Authorities have duly solicited the authorization of the American Government to make applicable to American citizens and protégés, the legislation increasing the rate of existing consumption taxes, no such request appears to have been made in regard to the original "Dahir" creating the taxation.

In this connection, the Department is respectfully referred to a Despatch from the American Legation, Tangier, No. 518 of February 7th, 1916,[10] under the signature of Maxwell Blake, as Chargé d'Affaires, transmitting the text of the Shereefian "Dahir" dated December 12th, 1915 establishing a consumption tax on sugar imported into the French Zone of Morocco. Mr. Blake commented fully on the "Dahir" and set forth the legal aspects of the legitimacy of such imposition, from the point of view of the treaties between the Powers and the Shereefian Empire.

No instruction appears to have been received from the Department in response to the aforementioned Despatch, but no difficulties have arisen in connection with the imposition of the taxes in question, so far as concerned American *ressortissants* in the French Zone of Morocco, as the latter, if they were interested in the importation of sugar, appear simply to have submitted to the taxation without question.

In the absence of any record of protest from persons under American jurisdiction in the French Zone, it is presumed that the latter also accepted without demur the subsequent legislation increasing and amplifying the effect and incidence of the sugar tax.

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[10] Not printed.

However, the attitude assumed by Great Britain, Holland and the United States, in regard to the application of similar taxation in the Spanish Zone, clearly indicates that such measures in all parts of the Shereefian Empire are subject to the same conditions, namely, that the terms of the treaties require the previous assent of the Powers concerned, before their respective *ressortissants* can be subjected to the payment of such taxation.

From the communication of the Resident-General, annexed hereto, it is obvious that the Franco-Shereefian Authorities, contrary to the position they appear to have assumed according to the report of Mr. Blake, when the original taxation on sugar was created in 1915, now concur in the above interpretation of the treaties, since application is made for the assent of the United States Government to make American citizens and protégés liable to the payment of the taxes on the basis of their modified rates.

In requesting the Department's instruction relative to the terms of the reply to be made to the Resident-General's request herewith transmitted, the Agency desires to be informed whether any reference should be made to the absence of such request in regard to the original "Dahir," or whether the reply should be limited to the formal consent of the United States Government to the application of these measures, as proposed, the present solicitation made by the French Resident-General being considered equivalent to a satisfactory compliance with the treaty principles involved.

In connection with the "Dahirs" enumerated in the Resident-General's letter herewith, it is perhaps appropriate to signalize a point of special interest in relation to the "Dahir" of June 8th, 1922, extending the tax on sugar to manufactured products containing sugar.

The preamble to the provisions of the last mentioned "Dahir" states that the local trade has pointed out that the manufacture, in Morocco, of liqueurs and confectionery encounters undue competition, owing to the fact that similar articles imported from abroad are at present subjected to customs duty only, and do not pay the additional charges represented by the consumption tax on their sugar content. The object of the "Dahir", it is stated, is to terminate such inequality, prejudicial both to the treasury and to local industry, by bringing imported manufactured products under the sugar tax.

This argument is perhaps not altogether ingenuous, since although imported articles had, until the promulgation of the "Dahir" in question, escaped the consumption tax on their sugar content, yet on the other hand they are and have been subject to the payment of import duty on their other constituent parts, on packing,

on freight, on wages and other overhead charges included in their assessable value at the customs house, representing an amount in duty to which the locally manufactured goods are not subjected.

The raising of revenue is but a secondary objective of the "Dahir" in question, its main purpose admittedly being to "equalize" competition between the local and the foreign manufacturer, and the particular point of interest appears to be that, in these dispositions, there may perhaps be discerned, the initial steps towards the eventual introduction, into the Moroccan economic régime, of a protective tariff for home industries.

I have [etc.] ELBRIDGE D. RAND

881.512/38

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

No. 271 WASHINGTON, *November 12, 1923.*

SIR: The Department has received your despatch No. 169 of September 14, 1923, with reference to the consumption taxes imposed on certain commodities, enclosing a copy of a letter from the French Resident-General in Morocco [11] requesting that you adopt the necessary measures to make applicable to the American *ressortissants* in the French Zone of Morocco the increases of the internal consumption taxes upon tea, coffee and pepper, in accordance with a "Dahir" dated January 8, 1923, promulgated by the Shereefian Government. In this despatch you desire to be informed whether any reference should be made to the absence of such a request in regard to the original "Dahir" of December 12, 1915, or whether the reply should be limited to the formal consent of the United States Government to the application of the taxes set out in the "Dahir" of January 8, 1923, it being considered that the present solicitation made by the French Resident-General is equivalent to a satisfactory compliance with the treaty principles involved.

It is not thought advisable to refer to the original "Dahir" but there would seem to be no objection to the consent of this Government being given to the payment of the taxes referred to in the "Dahir" of January 8, 1923, with the understanding that the collection of these taxes from their *ressortissants* is agreed to by the other capitulatory powers and that the consent of this Government is given with the usual reservation of consular jurisdiction over cases involving the collection of these taxes wherein any American citizen is concerned.

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[11] Not printed.

If the other powers give their consent you may make the "Dahir" effective with respect to American *ressortissants* as of the date of your communication of this Government's consent.

I am [etc.]

For the Secretary of State:
LELAND HARRISON

881.512/38a

The Secretary of State to the Ambassador in Spain (Moore)

No. 21 WASHINGTON, *November 17, 1923.*

SIR: Concerning the recent demand for payment of a consumption tax on alcohol imported into the Spanish Zone of Morocco, you are instructed to prepare a Note to the Spanish Government in the following sense:

"It appears that by the 'Dahir' of March 14, 1916, a consumption tax of fifty centimes per liter was imposed upon alcohol imported into the Spanish Zone of Morocco, and that by a subsequent 'Dahir' issued in August, 1922, the tax was increased to one peseta per liter.

"The Spanish Government is, of course, aware that American citizens and protégés in Morocco are exempt from taxation except insofar as consent to such taxation has been given by the Government of the United States. The consent of my Government to the application of this tax to American citizens and protégés does not appear to have been requested by the Hispano-Shereefian Authorities and consent thereto has not been given by my Government. The first instance coming to the attention of my Government in which American interests have been affected by the tax is that of the American Semsar, Cohen, who, for the purpose of obtaining possession of a shipment of Holland Gin consigned to him at Larache and detained by the customs authorities at that place, was advised by the American Diplomatic Agent and Consul General at Tangier in August last to pay the tax under protest.

"In a note which I had the honor to address to the Minister of State on the . . . of July, 1923, (here give the date of the Embassy's note to the Foreign Office advising of this Government's assent to the tax on sugar, tea and coffee—see Department's telegram No. 47 of July 27th, 5 p.m.[12]) I informed your Government of my Government's assent to the payment by American citizens and protégés of a consumption tax on sugar, tea and coffee. I am now authorized to inform Your Excellency that as a further evidence of my Government's desire not to interfere with any reasonable fiscal measure in the Spanish Zone of Morocco it is prepared to consent to the tax on alcohol at such a time as it is informed of the acquiescence therein by other Governments concerned and of the return to Mr. Cohen of the amount of the tax wrongfully collected from him on the shipment of gin referred to above."

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[12] Not printed.

The Department leaves to your discretion the advisability of presenting this Note to the Spanish Government at the present time or of withholding it for use in connection with the negotiation of a commercial agreement with Spain.[13]

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

881.512/39

The Ambassador in Spain (Moore) to the Secretary of State

No. 174 MADRID, *December 24, 1923.*
[Received January 10, 1924.]

SIR: With reference to the Department's Instruction No. 21 of November 17th last, I have the honor to report that I have today sent a note to the Foreign Office such as outlined in the above mentioned Instruction regarding the conditional consent of the Department to the Moroccan tax on alcohol as it applies to American citizens and protégés.

I have [etc.] ALEXANDER P. MOORE

INTERFERENCE BY THE FRENCH RESIDENCY GENERAL WITH THE CERTIFICATION OF AMERICAN PROTÉGÉS

381.11 Said, Sid Mohamed Ben

The Diplomatic Agent and Consul General at Tangier (Denning) to the Secretary of State

[Extract]

No. 20 TANGIER, *July 24, 1922.*
[Received August 16.]

SIR: At the request of the "Vacuum Oil Company," this Agency granted, some time ago, a semsarship to Sid Mohamed Ben Said of Salee. To this, the authorities of the French Protectorate first objected, on the ground that Salee and Rabat were really the same place, and when this matter was adjusted, there was further objection that the aforementioned was a notary of public, and so a public functionary, a fact which would debar him from becoming a protégé. Although the Agency felt that this was very technical, a notary being merely a municipal appointee, and not in any real sense, a public functionary, Sid Mohamed Ben Said was instructed to relinquish his office of notary. This was done. Then, under date of July 3, 1922, the French Residency addressed a Note to me deal-

[13] See pp. 831 ff.

ing both with the case of Sid Mohamed Ben Said and Sid Taibi Ben Tahami Haddawee. I enclose copy of this Note and my reply thereto, dated respectively July 3, 1922 and July 19, 1922.[14]

Therein, the Protectorate authorities, acting presumably as the Minister for Foreign Affairs of the Moorish Government, now affirm that the Government cannot give its consent to the semsarship of Sid Mohamed Ben Said, because he and his family have opposed and continue to oppose the authority of the Protectorate, and because, therefore, as it claims, this protection would only be used, by Sid Mohamed Ben Said, to secure immunity for his political activities, and not to forward the business of the "Vacuum Oil Company" which, in the opinion of the French authorities, is adequately cared for by the firm of Coriat of Rabat. (Rabat is just across a river from Salee, but is a distinct municipality).

. . . . . .

I have [etc.] J. M. DENNING

381.11 Said, Sid Mohamed Ben

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

No. 221 WASHINGTON, *October 10, 1922.*

SIR: The receipt is acknowledged of your despatch No. 20, of July 24, 1922, with reference to the objections raised by the French Residency General at Rabat to the designation of Sid Mohamed Ben Said as a semsar of the Vacuum Oil Company. From the Residency General's communication of July 3, 1922, of which you enclose a copy, it appears that the refusal of the Maghzen to assent to the extension of American protection to this native is based on its opinion that his object in seeking such protection is not to advance the interests of the American company, but to secure impunity for political activities hostile to the authorities of the Protectorate. You request instructions concerning the reply to be made to the communication above mentioned.

The Department does not feel that it is in possession of sufficient information to enable it to instruct you specifically as to the reply to be made to the French Residency General's communication of July 3, 1922, setting forth the objections of the Maghzen to the extension of American protection to Sid Mohamed Ben Said. As indicated in the Department's instruction No. 201 of December 2, 1921,[15] the propriety of the extension of American protection to native Moors employed as factors, brokers, or agents by American merchants is re-

[14] Notes not printed.
[15] Not printed.

garded by the Department as a matter for the exclusive determination of the appropriate representatives of this Government. Any objections which may be made by the Shereefian Government to the inclusion of specific individuals in the lists of American protégés are, of course, entitled to serious consideration, but in considering such objections it is necessary to bear in mind the importance of not unduly restricting the liberty of American merchants to choose for themselves the natives to be employed by them in their business affairs, as factors, brokers, or agents, and to be placed under American jurisdiction and protection pursuant to the provisions of treaties. It is obvious that a mere statement or suggestion by the Shereefian Government that an individual included in the list of American protégés is hostile or unfriendly to the authorities of the Protectorate is insufficient warrant for the withdrawal of American protection from such an individual.

It is noted that in the case of Sid Mohamed Ben Said the objections of the Shereefian Government or of the French Residency General have been based on different grounds at different times. If it be true, as stated by the Residency General, that this Moor has always made himself conspicuous by his hostility toward the authorities of the Protectorate, it seems remarkable that he was, notwithstanding his hostile attitude, permitted to continue as a public functionary, and that objection on the ground of his hostility to the authorities was not advanced at the outset.

The Department desires that you make a most thorough investigation respecting this matter, bearing in mind the foregoing observations and also the French practice of discouraging Moors from accepting semsarships, as set forth in your despatch No. 25,[16] and that you submit a further report to the Department. In this connection reference is made to the Department's instruction of even date [16] in reply to your despatch No. 21 of July 26, 1922,[16] in which you suggested a modification of the procedure at present observed in the issuance of "semsar certificates".

I am [etc.] CHARLES E. HUGHES

381.11 Said, Sid Mohamed Ben

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

No. 241 WASHINGTON, *December 26, 1922.*

SIR: The Department has received, in response to its instruction No. 221 of October 10, 1922, your despatch No. 64 of November 21,

[16] Not printed.

1922,[17] reporting the results of an investigation made by the Vice Consul in Charge at Casablanca with a view to ascertaining the merits of the contention of the French Residency-General at Rabat that the semsar Sid Mohamed Ben Said has sought American protection in order to secure impunity for political activities hostile to the authorities of the Protectorate.

The Vice Consul's report, as summarized by you, is to the effect that Sid Mohamed Ben Said is a peaceable and well-to-do Moor enjoying a high reputation in his community; that he is at present devoting his attention exclusively to the business of the Vacuum Oil Company, of which he is the sole representative at Salee; that he holds nothing against the French authorities and does not know why he should be suspected of hostility toward them; and that he has never taken part in any propaganda against the authorities. . . .

. . . Should you be unable to reach an understanding with the authorities through informal discussions, you may address a note to the Residency-General, stating the results of the investigation which has been made and adding the substance of the following:

As has been made clear in previous communications concerning the extension of American protection to native Moors employed as factors, brokers, or agents by American merchants, my Government is firmly of the opinion that the propriety of the extension of such protection is, under the applicable treaties, in every case a matter for the exclusive determination of the appropriate representatives of the United States. Any objections which may be made by the Shereefian Government to the inclusion of specific individuals in the lists of American protégés will, of course, be given courteous and serious consideration, but in considering such objections the representatives of the United States are obliged to bear in mind the importance of not unduly restricting the liberty of American merchants to choose for themselves the natives to be employed by them in their business affairs as factors, brokers, or agents, and to be placed under American jurisdiction and protection pursuant to the provisions of treaties. In the case of the semsar Sid Mohamed Ben Said the objections advanced in behalf of the Shereefian Government have been examined with the utmost care, and, in view of the suggestion that the semsar had sought American protection in order to secure impunity for activities hostile to the authorities of the Protectorate, a special investigation has been made by a representative of my Government. The investigation has revealed no evidence from which I can infer that the semsar is or has been unfriendly to the authorities of the Protectorate or that, in seeking American protection, he was in any way actuated by improper motives. I am, therefore, constrained to state, under instructions from my Government, that Sid Mohamed Ben Said, the representative of the Vacuum Oil Company at Salee, and the bearer of a certificate of

[17] Not printed.

American semsarship, is regarded by my Government as entitled to all the rights and privileges assured to semsars under the applicable treaties and usages and that upon appropriate occasions the protection of my Government will be extended to him as an American semsar. I may add that should the Shereefian Government at any time bring to my attention evidence tending to show that this semsar is unworthy of American protection, I shall not fail to give due consideration to such evidence.

I am [etc.] CHARLES E. HUGHES

381.11 Said, Sid Mohamed Ben

The Chargé at Tangier (Rand) to the Secretary of State

No. 144 TANGIER, *June 14, 1923.*
[Received June 29.]

SIR: I have the honor to refer to Despatch No. 20 of July 24, 1922 and to No. 64 of November 21, 1922[18] from this Agency and Consulate-General and to the Department's instructions Nos. 221 of October 10, 1922 and 241 of December 26, 1922, (both under file number 381.11–Said, Sid Mohamed Ben), relative to the granting of an American protection certificate to Mohamed Ben Said of Salee, as Semsar of the "Vacuum Oil Company" in that city. In this connection I have the honor to inform the Department that under date of June 9, 1923, the American Consul at Casablanca reported to this Agency that he had received a Note from the "Cabinet Diplomatique" at Rabat stating that the Maghzen refuses to recognize Mohamed Ben Said as being under American protection.

I have subsequently received from the Residency-General of France at Rabat, a communication under date of June 8, 1923, indicating that this native who had already figured on the American protection lists for 1921 and 1922, had not been recognized as an American protégé by the Maghzen for reasons given in previous correspondence from the French Residency-General to the American Agency at Tangier, correspondence which was duly transmitted to the Department in Despatch No. 20 of July 24, 1922, above mentioned.

In its communication of June 8, 1923, the Residency-General of France at Rabat, makes the following statement:—

"His (Mohamed Ben Said's) case was particularly considered in the course of conversations which took place at Casablanca last January at the time of Mr. Denning's stay there, and Mohamed Ben Said was signalized to the latter as an example of that class of natives who, without being ex-German protégés, have nevertheless always distinguished themselves by their opposition to France and to the Maghzen. Mr. Denning was good enough to give Mr. de Sorbier de

[18] Latter not printed.

Pougnadoresse the assurance that the next American protection list would not comprise the name of Mohamed Ben Said, who, distinctly hostile to our policy, obviously sought American protection only to secure impunity for his political activities. I am therefore convinced that it is in consequence of an error that the name of this native is mentioned on the list for 1923, and I have caused instructions to be given to the local authorities to consider him only as a Moroccan, subject to the common law."

Inasmuch as the substance of a Note, as outlined in the Department's instruction No. 241 of December 26, 1922, (File No. 381.11–Said, Mohamed Ben), was not addressed to the French Authorities at Rabat, it is presumed that the informal discussions between them and Mr. Denning did actually lead to some understanding in regard to Ben Said's protection, and the fact that Mr. Denning subsequently issued a Semsar certificate in favor of this native would appear to indicate that he was satisfied that the French objections had been overcome.

It is therefore possible that the excerpt above given from the last communication from the French Residency-General is the result of the latter's mis-conception of the nature of the understanding reached with Mr. Denning.

It is difficult for me to make an appropriate reply to the communication in question without definite knowledge of Mr. Denning's construction of his conversation with the Delegate of the Residency-General. The record of Mr. Denning's conversation with Mr. de Sorbier is found in Despatch No. 88 of January 31, 1923 [19] from this Agency and Consulate-General, and contains no specific reference to the case of Ben Said. Since it is understood that Mr. Denning intends to visit the Department before proceeding to his home, it is respectfully requested that the Department, after availing itself of the information which only Mr. Denning can give, will transmit to this office such instructions as will lead to the removal of the misunderstanding which appears to have arisen.

The importance of this case becomes the greater in view of a number of other cases recently brought to my attention which appear to indicate that the French authorities are deliberately pursuing a policy injurious to the standing of American *ressortissants* in the French Zone.

In conclusion, I would further respectfully request that the Department's instructions be transmitted to me as early as possible since it is evident that the present equivocal position is susceptible of aggravation by precipitate action on the part of the local authorities in pursuance of their instructions from the Residency-General to treat Mohamed Ben Said as a native, subject to the common law

[19] Not printed.

despite the fact that he actually holds an American protection certificate.

I have [etc.] ELBRIDGE D. RAND

381.11 Said, Sid Mohamed Ben

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Denning)

No. 266 WASHINGTON, *September 20, 1923.*

SIR: The receipt is acknowledged of the Agency's despatch, number 144, of June 14, 1923, in which the Department is informed that a communication has been received from the Residency General of France at Rabat, indicating that the Maghzen had refused to recognize Mohamed Ben Said as Semsar of the Vacuum Oil Company at Salee. It appears from the excerpt from the communication of June 8, 1923, quoted in the despatch under acknowledgment, that the French Residency General is under the impression that when you were at Rabat in January, 1923, you gave assurances that the name of Mohamed Ben Said would not appear on the American protection list for the year 1923.

It being the understanding of the Department that no such assurances were given to the French Residency General, you are instructed, in replying to the communication of June 8, 1923, to say that a misconception apparently exists regarding the nature of the understanding reached at Rabat and that it is your recollection that you agreed to remove Mohamed Ben Said from the list only if after investigation it was proved that he made use of American protection to further his political activities. You will add that your investigation is still in progress and that as soon as it shall have been concluded you will address a further communication to the Residency General.

Upon receipt of this instruction, you are also directed to request the principal representative of the Vacuum Oil Company in Morocco, by letter, to advise you of the amount and nature of the work actually conducted by Mohamed Ben Said on behalf of the company. You will then submit a copy of the company's reply to the Department whereupon you will be advised of the nature of the further communication which you will address to the Residency General mentioned in the preceding paragraph.[20]

I am [etc.]

For the Secretary of State:
LELAND HARRISON

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[20] The Chargé in a despatch of Sept. 11, received Oct. 2, informed the Department that it was unnecessary to continue the discussions in regard to Mohamed Ben Said, as the Vacuum Oil Co. had closed its depot at Salee and had requested the Agency to cancel Ben Said's semsar certificate.

881.81/135

The Diplomatic Agent and Consul General at Tangier (Denning) to the Secretary of State

[Extract]

No. 180 TANGIER, *October 26, 1923.*
[Received November 26.]

SIR: I have the honor to transmit herewith (Enclosure No. 1), a copy with its translation of a communication received at this Agency from the French Residency-General in reply to two letters to [*from*] this Mission dated July 10th, and September 14th, concerning the list of American Protégés and their status in the French Zone.

. . . . . .

I have [etc.] J. M. DENNING

[Enclosure—Translation]

The Delegate of the French Residency General (Blanc) to the American Chargé (Rand)

RABAT, *October 2, 1923.*

SIR: In your letters of July 10th and September 14th, 1923, you have been kind enough to communicate to me your observations concerning the decisions taken by the Maghzen with regard to the list of American protégés.

The first of these observations is connected with the decision, taken by the Maghzen, not to recognize protection, granted to natives who were, at the outbreak of war, on the Austro-German lists of protégés.

I have the honor to inform you that the Maghzen, for the reasons which I have explained in my former communications to your Diplomatic Agency on the subject, cannot but maintain its decision in the premises.

Besides I am glad to observe that the American list of protégés raises no difficulty on this subject, as it contains no name of ex-Austro-German protégés.

On the other hand you have been kind enough to inform me that it was not possible for you to take into consideration the reserves formulated by the Maghzen concerning the granting of American protection to certain natives who are in litigation with the Administration of Haboos and Domain properties, or against whom judgments, as a result of private litigation, were pronounced, but not as yet complied with on their part.

The Maghzen having noted your decision as to the withdrawal from your list for 1923, the names of Mimon Cazes, David Cabessa,

Charles Bendayan, Mohamed Ben Larbi Ben Said, and having, on the other hand, given its assent to the protection of Si Abdeslam Tazzi of Fez, there only remains under question the protection of Mulay Hassan Sarsar, Sween Bendaga, Mohamed Guenon and Abdelaziz El-Yacoubi.

With respect to these natives, I regret to reiterate the point of view already expressed by this Residency-General: "the contracts existing between them, on the one hand, with the Administration of Haboos and Domains, other Shereefian Administrations, or with private persons," were made at a time when they were Moorish subjects under common law. When these contracts were concluded it was with the certainty that execution would eventually be prosecuted against these natives in the local tribunals. Under these circumstances the Maghzen cannot admit that these natives shall pass under foreign protection until they have regulated their cases with the interested administration, or liquidated their obligations to private persons to whom they are indebted.

It is for this reason that I find myself obliged to repeat afresh the conditions prescribed by the Maghzen for the recognition of American protection to these natives, who until further notification, must be considered Moorish subjects, subject to the common law.

Please accept [etc.] URBAIN BLANC

NICARAGUA

AMERICAN ASSISTANCE IN THE REVISION AND ADMINISTRATION OF THE ELECTORAL LAWS OF NICARAGUA

817.00/2920c : Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

WASHINGTON, *January 18, 1923.*

4. Department regards it as extremely important that electoral law as drafted by Mr. Dodds[1] should be enacted without substantial changes by Nicaraguan Congress in sessions this year. You may discuss proposed law informally with the President, reminding him of the promise made by the Nicaraguan Government before his inauguration to the effect that an American expert would be employed for the revision of the electoral law, and stating that the Department considers that this promise, which was carried out when Dr. Dodds was employed, implied a promise to adopt in principle the recommendations made. You may say your Government attaches the greatest importance to the enactment of an electoral law which will give assurance of fairness and freedom in the presidential elections of 1924. While minor changes may be necessary in the draft as submitted, Department feels that such changes should not be of a nature which would affect the safeguards provided by Dr. Dodds' draft.

Department desires to be informed by cable of any changes which the President or Congress may deem it advisable to make. You should make every effort to procure early consideration and adoption of the law.

HUGHES

817.00/2932 : Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

MANAGUA, *March 17, 1923—11 a.m.*
[Received March 18—12:30 a.m.]

22. Dodds law passed Congress yesterday with few minor changes of no importance.[2]

RAMER

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[1] The draft is not printed. Harold W. Dodds was engaged by contract of Dec. 15, 1921, with the Government of Nicaragua, to assist in the revision of the electoral laws of Nicaragua.

[2] Printed in *La Gaceta*, nos. 71–74, inclusive.

817.00/2973½

Memorandum by the Secretary of State of a Conversation with the Nicaraguan Minister (Chamorro), September 28, 1923

The Nicaraguan Minister said that he was about to return to Nicaragua; that he hoped he would be able to come back to the United States, but he was not perfectly sure what developments might take place, and in case his efforts to induce an agreement upon a candidate for the Presidency were unsuccessful.

The Minister said that he would like to have the Secretary's suggestions about conditions in Nicaragua and any recommendations that he would care to make. The Secretary said that he was on the point of addressing a note to the Nicaraguan Government with respect to the desire of the Government of the United States to withdraw the Legation guard. The Secretary referred to the enactment of the electoral law drawn by an expert employed by the Nicaraguan Government for this purpose, and that this might be regarded as the first step to assure the people of Nicaragua complete freedom of the elections. The Secretary said that after the new Government had come into office in January 1925 it was expected that there would be no further reason to maintain a Legation guard at Managua and the American marines would accordingly be withdrawn at that time. The Secretary further said that the marines would be retained in Managua during the approaching electoral period only if the Nicaraguan Government considered that their presence would assist the constituted authorities in securing complete freedom in the elections.

The Secretary then referred to the importance of a thorough understanding of the electoral law, and that the machinery of the law should run as smoothly as possible he suggested that it might be well to ask Mr. Dodds, the author of the law, to go to Nicaragua in advance of the election, so that he might assist the authorities of Nicaragua in putting the law into effect. The Secretary said that it might be well to have assistants travel through Nicaragua to give the local authorities aid in the installation of the new system. The Secretary also referred to the importance of establishing an efficient constabulary to maintain order after the marines had withdrawn and the desire of the Government to assist in any proper way in the establishment of a constabulary. The Secretary said that it was not at all intended that the constabulary should be organized so as to supervise the elections, but, on the contrary, to be able to maintain order after the marines had been withdrawn.

The Minister said that he understood the desires of the Secretary, but that he was fearful that if commissioners of the United States

were in Nicaragua in connection with the electoral law it would be regarded as an attempt to supervise the elections and would cost the Conservative Party many thousands of votes. He hoped that nothing would be done that would interfere with the elections. The Secretary said that that was farthest from his purpose; that it was his desire that there should be a fair and free election. The Secretary said that he did not see that a few assistants of Mr. Dodds giving instruction to local authorities would constitute an interference or would prejudice any party. The Minister still demurred and after some discussion of the subject, in which the Secretary reiterated his position, the Minister said that it might meet the case possibly if these assistants were to withdraw before the election. The Secretary said that all those matters could be considered in proper time as it was the desire of the United States to aid the Nicaraguan Government in having an election which would be so fair and free that the people would be contented with the result.

817.1051/26

The Secretary of State to the Chargé in Nicaragua (Thurston)

No. 102 WASHINGTON, *October 8, 1923.*

SIR: The Department for some time has been giving serious consideration to the question of the withdrawal of the Marines from Managua. The Department feels that although the policy of landing United States forces in certain particular instances to prevent bloodshed and to protect American lives and property is a regrettable and unavoidable necessity while unstable conditions maintain in Central America, a continuance of American forces in any of those countries is fraught with many possibilities of misunderstanding.

Continued presence of American troops, such as that which has taken place in Nicaragua for the last eleven years, has at times given rise to the assertion, however unjustified it may be, that the United States Government is maintaining in office a government which would otherwise perhaps not be strong enough to maintain itself against the attacks of its political opponents. On the other hand, in the present instance, should the Marines suddenly be withdrawn there appears reason to believe that political disturbances might ensue.

While desiring, of course, to do nothing which could result in disturbances and bloodshed, the Department has, nevertheless, felt that now that the Dodds electoral law has been enacted the opportunity will present itself for the withdrawal of the Marines upon the installation in January, 1925, of the government to be elected in October, 1924, through the operation of the new law.

In this connection the Department has given careful consideration to the views expressed in your interesting despatch of July 7,[5] discussing the political situation.

The Department desires to be of any possible assistance to the Nicaraguan Government in the conduct of the approaching elections. It feels that there may be a considerable amount of confusion in the enforcement of the new electoral law because its provisions will be unfamiliar to the officials of Nicaragua and its execution will require the application of methods which have, perhaps, not hitherto been used in Nicaraguan elections. The Department feels that it could render very considerable help in installing the new electoral system by requesting Mr. Dodds to go to Managua some months in advance of the election to counsel and advise with the Nicaraguan officials in the carrying out of the provisions of the law, should the Nicaraguan Government ask the good offices of the Department in this matter.

The Department considers that the success of the whole plan of withdrawal depends upon the Government coming into office as the result of the next elections having the support of the majority of the people in order that it will be in such a strong position that when the Marines are then withdrawn there will be no occasion for political disturbances. To bring this about free and fair elections are essential, and the Department, therefore, desires to assist the Nicaraguan Government, if that Government so requests, in measures to secure this result. The Department feels that especially valuable assistance could be rendered by sending observers to travel throughout the country to help to make the provisions of the new law familiar to the local officials and to report to the authorities at Managua upon the manner in which the law is being enforced. You will, of course, understand and if necessary discreetly inform the Nicaraguan authorities, that the expenses of Mr. Dodds and the observers would be borne by the Department.

The Department desires, of course, that withdrawal of the Marines should not be attended by any disorder or instability in Nicaragua. It is, therefore, contemplating offering to the Nicaraguan Government its assistance in the organization of an effective constabulary if the Nicaraguan Government desires its aid in carrying out the provisions of Article II of the Convention for the Limitation of Armaments, signed at the recent Conference on Central American Affairs.[6] It will be glad either to place at the disposal of the Nicaraguan Government such officers of the United States military forces as may be necessary for this purpose or to suggest

[5] Not printed.

[6] *Conference on Central American Affairs*, p. 339.

civilian police experts to serve as instructors. These officers or civil experts would, of course, be employed by the Nicaraguan Government under such conditions as that Government might desire.

In view of the above, it is desired that you should address the following note to the Nicaraguan Government:

"I have the honor to inform Your Excellency that my Government desires that the Legation Guard, which has remained in Nicaragua since Your Excellency's Government requested the assistance of the Government of the United States in 1912, in the maintenance of constitutional order, should be withdrawn as soon as practicable. My Government, however, does not desire to make any sudden radical change which would inject a new element into the situation in Central America that might perhaps be a cause for unrest and disturbance.

"In this connection I am instructed to state that my Government has noted with gratification and with sympathetic appreciation the steps which have already been taken by the Nicaraguan Government to assure freedom and fairness in the approaching elections. The enactment of the electoral law, drafted by an expert employed by the Nicaraguan Government for this purpose, may be regarded as the first step toward assuring the people of Nicaragua that complete freedom will exist during the electoral period, and my Government is confident that this step will be followed by such effective measures during the electoral period as will assure a free expression of the will of the people and convince all parties that the Government which may result from the elections will have the support of the majority of the people of Nicaragua. Therefore, my Government instructs me to inform Your Excellency that upon the installation in January, 1925, of the government coming into office as the result of the elections to be held in October, 1924, it will feel that there is no further reason to maintain a Legation Guard at Managua and the American Marines will accordingly be withdrawn at that time.

"I am further instructed by my Government to state that the American Marines will be retained in Managua during the approaching electoral period only if the Nicaraguan Government considers that their presence will assist the constituted authorities in assuring complete freedom in the presidential elections, and that they remain specifically for the purpose of helping to maintain tranquility and order during the electoral period.

"The electoral law recently voted is as yet unfamiliar alike to the officials charged with its carrying out and enforcement, as to the Nicaraguan electorate which will exercise its rights according to its provisions. Therefore, in order to assist the Nicaraguan Government in the installation of this new electoral system with the least possible amount of confusion, my Government will be glad, should the Nicaraguan Government so desire, to ask Mr. Dodds, the author of the law, or some other qualified technical expert, to come to Nicaragua a few months in advance of the next election in order that he may, by his counsel and advice, assist the Nicaraguan authorities in putting the law into effect. My Government will also be glad to assist the Nicaraguan Government to obtain the services of such additional

assistants as may be required to travel throughout Nicaragua to help the local authorities in the installation of the new system and in its proper enforcement, and to report to the authorities at Managua any difficulties that may be encountered throughout the country in the proper enforcement of the law in order that those difficulties may be promptly overcome.

"As another evidence of its desire to assist Nicaragua in the orderly and undisturbed conduct of its normal existence, my Government would be glad to assist the Nicaraguan Government in the organization and training of an efficient constabulary which would assure the maintenance of order after the Marines are withdrawn. In establishing a force of this nature the Nicaraguan Government would be carrying out the terms of Article II of the Convention for the Limitation of Armaments, signed at the recent Conference on Central American Affairs. If the Nicaraguan Government desires, my Government will be glad to suggest the names of persons suitable to act as instructors in the new constabulary, in order that their experience may be made available to Nicaragua.

"My Government feels that with the aid of Mr. Dodds and the other assistants in the efficient installation of the new electoral system, free and fair suffrage should be possible in the coming elections so that the government resulting therefrom should have the support of the majority of the Nicaraguan people and would, therefore, need no other assistance in maintaining order than that of the Nicaraguan constabulary, which my Government is ready to assist in training, and that, therefore, upon the installation of that government the Marines may be withdrawn without any noticeable effect upon the normal course of affairs in Nicaragua.

"The new government should be in a very strong position indeed, and it is hoped that long before its entry into office the General Treaty of Peace and Amity, signed at Washington on February 7, 1923, by the representatives of the five Central American powers, will have been ratified and put into effect so that any individual or group of individuals who might endeavor to overthrow the constituted authorities will know full well in advance that the other four Central American Governments will not, on account of Article II of that Treaty, recognize any government coming into power contrary to the provisions of that Treaty. In any case, the position and policy of the United States Government with regard to such recognition is and will continue to be that announced by the American Minister to Honduras under instructions from the Department of State of June 30, 1923,[7] which is in complete consonance and accord with the stipulations of Article II of the General Treaty of Peace and Amity, as signed by the delegates of the five Central American Republics at Washington on February 7, last."

In presenting this note you may state that should the Nicaraguan Government so request, the Department would be glad to present to the consideration of Congress the question of authorizing active members of the United States Marine Corps to enter the service of

[7] *Ante*, p. 432.

the Nicaraguan Government, a portion of their salaries being paid by the United States Government. In the meantime, pending action of the United States Congress on this matter, you may state that there would be no objection, should the Nicaraguan Government so request it, for officers of the Marine Corps, stationed in Nicaragua, to volunteer their services to assist in the formation, organization and instruction of the proposed constabulary force, and that the Department understands that the officers in question will be glad to render such service should the Nicaraguan Government so desire. In this connection it should, of course, be understood, and you will fully explain to the Nicaraguan Government, that the Marine officers would exercise only the functions of advising as to the formation, organization, instruction, et cetera, of the constabulary, and that such officers would withdraw altogether from any connection with the constabulary in the event of war or insurrection in Nicaragua.

You are requested to report by telegraph the result of your representations, and the reply of the Nicaraguan Government to the above quoted note.

In this connection it may be said, for your confidential information and guidance, as indicating the possible objections which may be raised by the Nicaraguan Government to the course of action outlined in the above note, that the Nicaraguan Minister has informally stated that his Government would not welcome any supervision of the elections because such action on the part of the United States would so seriously injure the prestige of the Conservative Party as to cost it many thousands of votes. General Chamorro felt that even the organization of the Constabulary under American officers would be regarded by the people of Nicaragua as a move towards the supervision of the elections by the United States, and that the detail of American officers for this purpose at this time would, therefore, not be welcomed by his Government. . . .

However, the reasonableness of the course of action proposed above will, it is hoped, appeal strongly to the Nicaraguan Government, especially when it is realized that it is not proposed to build up a Constabulary for the purpose of supervising the coming elections, but in order to create a force that will be able to replace the American Marines and to maintain order in their stead after their withdrawal. The Department will be glad to have a full expression of your views regarding this matter, and to have you bear in mind, in any recommendations which you may make, the Department's desire to avoid any action which would injure either party in the forthcoming elections.

In order not to embarrass the Nicaraguan Government in any way in connection with this matter, the Department desires that any

information, statements or publicity, regarding the note which you are instructed above to address to the Nicaraguan Government, should come from that Government and not from the Legation.

I am [etc.] CHARLES E. HUGHES

817.00/2983 : Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

MANAGUA, *November 20, 1923—2 p.m.*
[Received November 21—12:17 a.m.]

82. Department's instruction No. 102 October 8, 1923. Note was sent as instructed to the Foreign Office on November 14th. This morning President Martinez informed me that it was necessary to give full consideration to contents of note before replying thereto on account of the seriousness of matters involved and that he would probably want to discuss later some of the points at issue. He said that he desired to continue the friendly relations with the United States Government that had been maintained by his party. He expressed no objection to Dodds and assistants coming the early part of next year to aid in starting the machinery of the new electoral law. When I informed him that their expenses will be paid by the Department he expressed doubt as to its [wisdom?] as it might be misconstrued here as interference on the part of the United States Government on both sides; assured him that the Department had no desire to interfere in their electoral problem but only desired to aid the Nicaraguan Government in putting into effect the new law.

It is my opinion that this Government will not want American observers here at the time of elections. Will keep Department informed.

RAMER

817.00/2983 : Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

WASHINGTON, *November 23, 1923—3 p.m.*

52. Your November 20, 2 p.m.

Inform President Martinez, if you have not already done so, that the Department's offer to pay expenses of electoral experts was made simply in a desire to relieve the Nicaraguan Government of the financial burden involved, but that there would of course be no objection should the Nicaraguan Government wish to pay the expense itself.

HUGHES

817.00/2983 : Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

WASHINGTON, *December 13, 1923—6 p.m.*

57. Your November 20, 2 p.m., and Department's November 23, 3 p.m.

This Government is gratified to note that President Martinez has no objection to having Dodds and assistants visit Nicaragua to aid in starting the enforcement of the new electoral law. It believes that Dodds should be in Nicaragua during the registration period and that arrangements should immediately be made to make sure of his services. It is understood that Dodds is holding himself in readiness to go to Nicaragua but that he must know within a very short time, in order to make necessary arrangements. Please discuss this matter at once with the Nicaraguan Government and ascertain definitely whether the Nicaraguan Government wishes to pay Dodds' salary and expenses or to avail itself of your offer that this Government should bear the expense.

HUGHES

817.00/2997 : Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

MANAGUA, *December 14, 1923—2 p.m.*

[Received December 15—9:15 a.m.]

93. Department's instruction number 102, October 8th, 1923 and telegram dated December 13, 6 p.m. Yesterday afternoon I received the reply which President Martinez instructed Minister for Foreign Affairs to make in the following manner.

The Nicaraguan Government deems it expedient that the marines remain here at least until installation of the new Government in January 1925.

The Government agrees to Dodds coming to Nicaragua at the expense of Nicaraguan Government some months before elections, suggesting the months of February to April, for the purpose of helping in the installation of the new electoral system and to be accompanied by two or three assistants at most should it be absolutely necessary, suggesting that number might be increased from the Legation guard. Government regrets that stringency of economic situation does not permit it to incur expense for Dodds remaining longer than absolutely necessary.

The President approves of the creation of a national guard but the present limited budget does not permit at present its [establishment?]. He would appreciate it if United States Government would permit some Nicaraguans to receive instruction from the officers of

Legation guard so as to be able to help in the formation of the proposed national guard. This Government does not doubt that the United States Government will want to use its good offices to have the Financial Plan of 1920 [8] modified to increase the budget to cover expense of maintenance of national guard.

Finally nothing in the Legation's note has been considered as an intent to intervene in the next elections whose freedom this Government proposes to guarantee by all means within its power. Copy of note by mail next week.

RAMER

QUESTION OF THE STATUS OF GREAT CORN AND LITTLE CORN ISLANDS

817.812/381

The Secretary of the Treasury (Mellon) to the Secretary of State

WASHINGTON, *October 1, 1923.*

SIR: I have the honor to acknowledge the receipt of your letter of the 22nd ultimo [9] transmitting a copy of despatch number 108 dated August 20th, 1923, from the American Consul at Bluefields, Nicaragua,[9] reporting an inquiry made by an exporter to the United States as to whether Little Corn and Great Corn Islands are considered a part of the United States, with a view to obtaining the free entry of coconuts from the islands.

In the convention between the United States and Nicaragua, signed at Washington August 5, 1914, and proclaimed June 24, 1916, (39 Stat Pt 2 1661)[10] I find the following provision:

"The Government of Nicaragua hereby leases for the term of ninety-nine years to the Government of the United States the islands in the Caribbean Sea known as Great Corn Island and Little Corn Island".

As this Department has been favored for many years with your advice on such territorial questions when they arose, I shall appreciate an expression of your views on this particular question in order that a decision under the tariff laws may be more intelligently made.

By direction of the Secretary.

Respectfully,

McKENZIE MOSS
Assistant Secretary

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[8] A financial agreement between the Government of Nicaragua and the two New York banking houses of Brown Brothers & Co. and J. W. Seligman & Co.

[9] Not printed.

[10] *Foreign Relations*, 1916, p. 849.

817.812/381

The Secretary of State to the Secretary of the Treasury (Mellon)

WASHINGTON, *October 29, 1923.*

SIR: I have the honor to acknowledge the receipt of your letter of October 1, 1923, in reply to this Department's letter of September 22.[11] You request an expression of this Department's views upon the question whether the Corn Islands are considered a part of the United States.

By Article II of the Treaty of August 5, 1914, with Nicaragua, these islands were leased to the United States for a period of ninety-nine years, it being expressly agreed that they should be subject exclusively to the laws and sovereign authority of the United States during the term of the lease and of any renewal or renewals thereof. In an international sense, therefore, the islands may be deemed, in view of the proclamation of the Treaty, to be a part of the territory of the United States. This Government, however, has not taken possession of the islands under the lease and Nicaragua has continued to exercise jurisdiction therein.

I should be glad if you would inform me, in the light of this information, what will be the policy of the Treasury Department with regard to the imposition of duties upon coconuts imported from the islands in question.

I have [etc.] CHARLES E. HUGHES

817.812/382

The Secretary of the Treasury (Mellon) to the Secretary of State

WASHINGTON, *November 3, 1923.*

SIR: I have the honor to refer to your letter of the 29th ultimo, further in regard to the inquiry communicated by the Consul at Bluefields, Nicaragua, as to whether Little Corn and Great Corn Islands are considered a part of the United States, the inquiry being made with a view to obtaining the free entry of coconuts from these islands.

You state that by Article II of the treaty of August 5, 1914, with Nicaragua, these islands were leased to the United States for a period of ninety-nine years, it being expressly agreed that they should be subject exclusively to the laws and sovereign authority of the United States during the term of the lease and of any renewal or renewals thereof, and that in an international sense, therefore, the

[11] Not printed.

islands may be deemed, in view of the proclamation of the Treaty, to be a part of the territory of the United States.

In view, however of your further statement that this Government has not taken possession of the islands under the lease and that Nicaragua has continued to exercise jurisdiction therein, I am of the opinion that for the purposes of the Tariff Act of 1922 these islands should be treated as a foreign country.

I suggest that the consul be requested, however, to inform the shipper who made the inquiry that if the parties in interest are not satisfied with this decision the importers in this country may obtain a judicial review thereof by filing a protest with the collector of customs at the port of importation under the provisions of Section 514 of the tariff act of 1922.

By direction of the Secretary.

Respectfully,

McKenzie Moss
Assistant Secretary

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 362 ff.)

NORWAY

PAYMENT BY THE UNITED STATES OF THE AWARD TO NORWAY RENDERED BY THE ARBITRATION TRIBUNAL SET UP UNDER THE SPECIAL AGREEMENT OF JUNE 30, 1921[1]

411.57 N 83/509a

The Secretary of State to President Harding

WASHINGTON, *January 11, 1923.*

MY DEAR MR. PRESIDENT: By Special Agreement signed at Washington June 30, 1921, and duly ratified, the United States and Norway submitted to arbitration certain claims of Norwegian subjects against the United States arising out of requisitions by the United States Shipping Board Emergency Fleet Corporation. In accordance with the Agreement you appointed one arbitrator, the Honorable Chandler P. Anderson, and the King of Norway selected another arbitrator, His Excellency, Mr. Benjamin Vogt. The two Governments not having agreed on a third arbitrator, the President of Switzerland designated Mr. James Vallotton to act in that capacity. The Tribunal assembled at The Hague on July 22, 1922. The United States was ably represented before the Tribunal by the Honorable William C. Dennis as Agent for the United States, and the Honorable George Sutherland as counsel. An Award was made on October 13, 1922, directing the United States to pay to the Kingdom of Norway in satisfaction of fifteen claims a total of $11,995,000.[2] This sum included interest. The American Arbitrator, Mr. Anderson, not being permitted to file a dissenting opinion, refused to be present when the Award was announced and wrote a letter to the Agent of the United States which the latter submitted to the Tribunal, at the conclusion of the hearing of the Award, in the following statement:

"I have of course had no opportunity to consult with my Government in regard to the award which has just been pronounced, but I deem it my duty on behalf of the United States to reserve all the rights of the United States arising out of the plain and manifest

[1] For text of agreement, see *Foreign Relations*, 1921, vol. II, p. 596.

[2] The proceedings of the Tribunal, including the award, are printed in Permanent Court of Arbitration, *Proceedings of the Tribunal of Arbitration Convened at The Hague under the Provisions of the Special Agreement between the United States of America and Norway Concluded at Washington, June 30, 1921* (The Hague, 1922).

The award is also printed in S. Doc. 288, 67th Cong., 4th sess.

departure of the award from the terms of submission and from the 'essential error' to use the language of the authorities, by which it is invalidated.

"I am in receipt of the following communication:

"'THE HAGUE, NETHERLANDS,
"'*October 13, 1922.*

"'SIR: In making the award signed today, Friday, October 13, by Mr. James Vallotton and the Secretary General of the Permanent Court of Arbitration, Mr. Vallotton and Mr. Vogt, in my opinion, have disregarded the terms of the submission and exceeded the authority conferred upon the United States-Norway Arbitration Tribunal by the Special Agreement of June 30, 1921, which imposes definite limits upon its jurisdiction.

"'I have therefore refused to be present when the award is announced.

"'I send you this notice in order that your Government may be informed of the reasons for my absence and that they may be made a matter of record.

"'I have addressed a similar communication to the Agent of Norway and to the Secretary General of the Permanent Court of Arbitration.

"'With great respect, I am,
"'Sincerely yours,

CHANDLER P. ANDERSON

"'The Honorable WILLIAM C. DENNIS,
"'*Agent of the United States,*
"'*United States-Norway Arbitration.*'"

Since the receipt of the text of the Award and the papers in the case I have given the most careful consideration to the questions involved. The Special Agreement constituting the Tribunal provided as follows:

"The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal.

. . . . . .

"The decision shall be accepted as final and binding upon the two Governments."

It is at once apparent that in order to justify the United States in refusing to pay the Award it should appear not simply that, in the absence of fraud, the Tribunal disagreed with the views of this Government, or overruled its contentions, but that the Tribunal acted outside the terms of the submission and hence committed a jurisdictional or fundamental error.

First. In this aspect of the case one of the most important questions presented relates to our Treaty with Norway. The provisions of the Treaty with the Governments of Sweden and Norway of July 4, 1827,[3] incorporated the following stipulation contained in the Treaty between the United States and Sweden of April 3, 1783,[4] and it has been recognized by this Government that since its secession from Sweden, Norway is entitled to the benefit of this stipulation:

"Merchants, masters, and owners of ships, seamen, people of all sorts, ships and vessels, and in general all merchandizes and effects of one of the allies or their subjects, shall not be subject to any

[3] Miller, *Treaties*, vol. 3, p. 283.
[4] *Ibid.*, vol. 2, p. 123.

embargo, nor detained in any of the countries, territories, islands, cities, towns, ports, rivers, or domains whatever, of the other ally, on account of any military expedition, or any public or private purpose whatever by seizure, by force, or by any such manner; much less shall it be lawful for the subjects of one of the parties to seize or take anything by force from the subjects of the other party, without the consent of the owner." [5]

In arranging for the present arbitration it was agreed between the two Governments that the question of a violation of this treaty provision should not be submitted to the Tribunal. This was provided by an exchange of notes, the Norwegian Minister stating in his note of June 16, 1921: [6]

"During the negotiations which have taken place later between the State Department and the Legation, however, my Government has gone further and agreed to your desire that the court shall not in any way be invited to examine, discuss or decide upon the treaty violation question.

"Since the parties are in agreement upon this point, it will be unnecessary for me to discuss in detail the remarks in Your Excellency's note in this connection and I therefore give you the formal assurance requested that the question of treaty violation is not to be raised in any way."

It is insisted, however, that despite this agreement the question of treaty violation was brought into the case. I should go beyond the appropriate limits of this letter if I attempted to review the circumstances or discuss the references which were made to the treaty in the course of the hearings before the Tribunal. In its award the Tribunal made the following explicit statement:

"It is necessary to mention here that, while the Norwegian claimants might have bona fide believed themselves to be entitled to privileged treatment under the treaty between the Parties, it was agreed on June 30th, 1921 between the Parties not to apply such Treaty in the present arbitration. The Tribunal has acted according to this agreement."

It has been strongly argued that, notwithstanding this statement in the Award, the treaty question did enter into the consideration and decision of the Tribunal. I do not find, however, that such a position can be taken by the Government of the United States. A fraudulent purpose, or an intention to say one thing in the Award and to do quite another, cannot be imputed. An endeavor to spell out of the Award an attempt to deal with the treaty question contrary to the Agreement which accompanied the submission, how-

[5] Art. 17 in treaty of April 3, 1783, with Sweden, incorporated into treaty of July 4, 1827, with Norway and Sweden by art. 17 of the latter treaty.

[6] *Foreign Relations*, 1921, vol. II, p. 593.

ever earnestly prosecuted, would in my judgment be doomed to failure. The Tribunal has stated that it has "acted according to this agreement," and in the absence of proof of fraud this statement must be accepted.

Second. The Special Agreement for the Arbitration undoubtedly incorporated by reference the applicable provisions of The Hague Convention for the Pacific Settlement of International Disputes of October 18, 1907,[7] to which both the United States and Norway are parties. Article 79 of this agreement of that Convention provides in part that—"The Award must give the reasons on which it is based."

It is urged that the present Award does not comply with this requirement. I must say that the Award appears to me to be confused, poorly reasoned and lacking in an appropriate exposition of grounds. Particularly does it fail to give a satisfactory explanation of the manner in which it has arrived at the amounts awarded. It is so loose and ill-constructed that it is open to strong attack upon the ground that it has failed in a proper sense to give the reasons upon which it is based.

On the other hand, the Award consists of forty-two printed pages and contains a discussion of facts and principles from the standpoint of the Tribunal. It is manifest that the requirement of the Hague Convention does not mean that the statement of reasons must be cast in any artificial form, much less that the reasons given should be those which the defeated party would recognize as adequate. The question is whether the Award, while discursive and purporting to discuss facts and principles, is in truth so destitute of reasoning as to constitute an Award without reasons.

I am unable to reach the conclusion that, however subject to criticism as to form and substance of statement, the Award would be held by an impartial tribunal to be invalid upon the ground that it failed to meet the requirement in question. It is a prolix, unsatisfactory discussion, but I think it is going too far to say that it is void.

Third. Another important reason which is presented for attacking the Award, as being outside the terms of submission and fundamentally erroneous, is that it affords ground for saying that the Tribunal held the United States to have violated the applicable rule of international law in seizing the property in question and that this consideration augmented the amount of damages awarded. It has been urged that, while disclaiming a consideration of the question of treaty violation, a similar result was reached by holding, without right, that there was apart from the Treaty a violation of a rule of

[7] Malloy, *Treaties*, 1776–1909, vol. II, p. 2220.

international law. It is said in objection to the Award that the Tribunal held that the authority of the United States to take property within its jurisdiction for public use had a limitation under the rules of international law in the case of property owned by friendly aliens which did not exist in the case of citizens, and that the United States could not lawfully take the property of friendly aliens, even upon making compensation, unless the taking was justified by an emergency, a question which the Tribunal apparently felt itself competent to decide. The Award repeatedly states that there was no emergency justifying the retaining of the property in question after June, 1919, when the Treaty of Versailles was signed.

It may be true that if municipal law permits, as it may well permit in the absence of constitutional restriction, the property of citizens to be seized without compensation, such a rule probably could not, under international law, extend to the property of friendly aliens. In the case of the United States, however, the provision of the municipal law is that compensation must be paid and the holding of the Tribunal is criticized as in effect a review of the question whether an emergency existed justifying the continued holding of the property after the time specified. Such a holding might be regarded as an attempt to limit the authority of the United States in the exercise of its power of eminent domain, instead of holding, as it should have been held, that the United States was entitled to take the property and hold it for public use, as it thought fit, provided it made just compensation. The Tribunal concluded that it could hold the United States guilty of a violation of a rule of international law by defining the extent of the emergency and its termination. This point has been discussed from various angles in order to establish the conclusion that in its ruling the Tribunal so far departed from the applicable principles as to justify the treatment of the Award as fundamentally erroneous and invalid.

The Special Agreement provides as follows: "The Tribunal shall examine and decide the aforesaid claims in accordance with the principles of law and equity and determine what sum if any shall be paid in settlement of each claim." The point is made, in substance, that the Tribunal did not properly decide according to the principles of law and equity but disregarded these principles, applied an erroneous rule of its own making, and proceeded upon the theory that it could in this view award whatever damages it might think suitable "*ex aequo et bono*."

I have carefully considered this point, and I recognize that, in view of various statements in the Award, the argument may be urged with great force, but I am constrained to the conclusion that it is not so clearly established that this Government can assume that an

impartial tribunal would decide the award to be invalid upon this ground.

Fourth. There is also a question presented with respect to certain of the claims on which a sum of about $1,680,000 was awarded. I understand the point to be that in holding that the contracts were not requisitioned by the United States Shipping Board Emergency Fleet Corporation as of August 3, 1917, but were requisitioned by the Shipping Board on October 6, 1917, the Tribunal exceeded its jurisdiction because that jurisdiction extended only to claims arising "out of requisitions by the Emergency Fleet Corporation." It is accordingly urged that to this extent the Tribunal assessed damages on claims not submitted to it. This objection goes, as above indicated, only to a small part of the Award and deals with the matter from a standpoint which, although it might be logically taken, might well be regarded as involving only technical considerations and that these, in the absence of other grounds justifying the United States in repudiating the Award, should not alone be deemed to make that course advisable.

For similar reasons other subordinate points need not be presented.

Summary of the situation. I do not disparage the earnestness and ability with which the Award has been criticized and, as I have said, I regard it as open to serious criticism. Nor do I fail to sympathize with the position of the American Arbitrator who, finding it impossible to file a dissenting opinion against an Award which he believed to be unwarranted and unjust, declined to participate in the final action.

The fact, however, remains that the Award has been made; that an Award by a majority of the Tribunal is an award by the Tribunal; and that the United States has agreed to accept this Award as final and binding upon this Government unless it is able to show that the Arbitrators exceeded their jurisdiction.

I deem it to be clear that an objection to the payment of the Award would give rise to diplomatic correspondence in which this Government could find small satisfaction. Undoubtedly the United States would be portrayed as refusing to pay an Award which it had agreed to pay, and this would seriously reflect upon our attitude with regard to arbitration and would prejudice our influence in endeavoring to support in the case of other countries arbitral decisions.

I find no reason to believe that Norway would agree to disregard the Award, and certainly I do not think it advisable that we should endeavor to trade with Norway in order to secure a reduction of the amount. Our position should be either that the Award is valid or void. If it is valid it ought to be paid, however much we dislike it; if we are not prepared to take that course, we should be ready

to demonstrate the invalidity of the Award. It is not to our interest to dispute the Award and leave the matter indefinitely in abeyance. This Government certainly owes something for the property taken and whatever it does owe is running at interest. It is essential that there should be a disposition of the controversy.

Our attitude, in case we attack the Award, would probably have to be that the question of its validity should be submitted to arbitration. It is doubtful whether Norway would agree to this, but assuming that our resistance practically compelled her to do so, the question then would be of the chance of our success before an arbitral tribunal dealing with that question. Manifestly it would be highly injurious to the prestige and interests of our Government to insist upon submitting the validity of the Award to arbitration with the result that the Award was sustained and the action of the United States definitely held to be unjustified. In insisting upon an arbitration of such a question I think we should be reasonably sure that a new tribunal would hold the Award to be void whatever they might think of its reasoning.

There is no way, however, of being assured of such a result; indeed, I think it to be quite doubtful. The question then is whether we should refuse to pay the Award and take a doubtful chance of having it set aside as invalid. My regard for the prestige and authority of the United States in its international relations is such that I cannot recommend such a course.

There is another consideration. It is true that in the present arbitration it was agreed that there was to be no discussion or finding of the violation of our Treaty with Norway. Further, this agreement on the part of Norway was based upon adequate consideration. But, in case we should succeed in having the Award set aside, we should be back again where we started. Norway would then be entitled to insist that the question of treaty violation should be considered. However we may argue as to the course of the Tribunal in making the Award and the impropriety, under the agreement which had been made, of referring to the Treaty at all in the presentation and discussion of the case, still the fact remains that the Treaty exists; that we are under the obligations of that Treaty; and that unless Norway agrees otherwise, we are bound, under our general arbitration treaty, to submit questions of treaty interpretation to an arbitral tribunal. We do not get rid of the Treaty, when we consider repudiating the Award and having a new arbitration, by pointing to an agreement which related to the present arbitration which we overthrow.

Coming back to the Treaty which I have quoted on page four of this letter,[8] you will note that it relates not only to ships and ves-

[8] See *ante*, p. 618.

sels which might be taken to mean completed ships and vessels but in general to "all merchandizes and effects." It is provided that they shall not be "subject to any embargo nor detained . . . on account of any military expedition, or any public or private purpose whatever, by seizure, by force, or by any such manner."

We have had occasion to deal with a similar provision in our Treaty with Spain of 1795, where it was agreed that "The subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other for any military expedition or other public or private purpose whatever."[9] We invoked this provision when the Spanish military authorities seized the property of American citizens in Cuba in 1868. Under instructions from the Department of State our Minister represented to the Spanish Government (July 26, 1870) that this Article "expressly renounced all right to embargo or detain the property of the citizens or subjects of the other;" That this renunciation included "every possible case in which the power could be exercised;" and that "no exigency of war, no requirement of the public service, no civil disorder" was "permitted by the stipulations of the treaty to sanction or excuse these prohibited acts of spoliation" (*For. Rel.*, 1871, p. 702). Again, in a note addressed by Secretary Olney to the Spanish Minister at Washington (February 14, 1896)[10] with regard to the decree of the Spanish Governor General of Cuba requisitioning for military service property belonging to American citizens, it was said that the Article "certainly means that the vessels and effects of citizens of the United States within the Spanish jurisdiction may not be appropriated against the owner's will to the public use for military or any other purposes, even though compensation be tendered."

The formal position which has thus been taken by our Government with respect to the effect of such a treaty provision would, to say the least, facilitate the claim of Norway that we had been guilty of a treaty violation and we are bound to consider the possibility that if we should succeed in setting aside the present Award, we might have to consider a claim of treaty violation and submit that question to arbitration if Norway insisted upon it, with the possible result of its being decided that the United States not only owed a certain amount of money but had been guilty of a breach of its Treaty obligation.

I say this because I think that while the power of eminent domain is a sovereign power and its exercise touches the honor and vital interests of the United States, still it is entirely competent for the

[9] Miller, *Treaties*, vol. 2, p. 318 (art. VII).
[10] *Foreign Relations*, 1896, p. 670.

United States to make a treaty for the purpose of protecting the property of friendly aliens within its jurisdiction and when it does make such a treaty the question of its violation and of the damages that should be paid is an appropriate subject for arbitral decision.

I confess that, unsatisfactory as is the present Award, I see no satisfactory alternative to its payment. Our repudiation of the Award would involve us in a controversy in which we should not have a monopoly of statement. The United States would be put in a most unpleasant position before the world and could only justify itself by final success. In the event that we did succeed in having the Award treated as void, we should in some way have to negotiate a settlement, and we might find ourselves called upon to submit to arbitration not only the question of damages but the question of a violation of a treaty provision, the nature and effect of which we had already made the basis of strong representations to another Power.

My conclusion is that this Award should be paid and accordingly I am sending you a separate and brief letter [11] merely reciting the fact of the Award and recommending that the matter should be presented to Congress in order that suitable provision be made for payment.

I may add that the time since the receipt of the Award necessarily has been consumed in consideration of the record and the various questions which it has presented, and that in case it is decided to recommend payment, provision should be made at an early date as the Award carries interest from its date, October 13, 1922.

I am [etc.] CHARLES E. HUGHES

411.57 N 83/510

President Harding to the Secretary of State

WASHINGTON, *January 12, 1923.*

MY DEAR MR. SECRETARY: I have yours of January 11th, in which you report to me on the arbitration award made in certain claims of Norwegian nationals against the United States, arising out of requisitions of the United States Emergency Fleet Corporation. I have noted with very great interest the details of the report you make. As already indicated in personal interview, I believe it altogether desirable that these awards be accepted and payment made promptly even though it is impossible to agree to the justice thereof. Accordingly, I am transmitting your letter [12] and copies of the award to

[11] Not printed.

[12] Not printed; see penultimate paragraph of letter of Jan. 11 to the President, *supra*.

the House and Senate so that early consideration may be given by the Congress and necessary appropriations made.

Very truly yours,

WARREN G. HARDING

411.57 N 83/560

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, *February 26, 1923.*

SIR: By Joint Resolution approved February 20, 1923,[13] the Congress of the United States took appropriate action to satisfy the Award rendered on October 13, 1922, by the Tribunal of Arbitration between the United States and the Kingdom of Norway, established under the Special Agreement concluded June 30, 1921, for the purpose of adjusting by arbitration certain claims of Norwegian subjects against the United States arising out of requisitions by the United States Shipping Board Emergency Fleet Corporation. In pursuance of that Resolution and in conformity with the Award, I have the honor to send you herewith a draft upon the Treasurer of the United States for $12,239,852.47 in full satisfaction of the total sums awarded to your Government after deducting the sum of $22,800 retained by the United States under the terms of the Award for payment to Page Brothers, and including interest at six per centum per annum upon the net total sum due to Norway from the date of the rendition of the decision until the date of payment.

By this action the Government of the United States gives tangible proof of its desire to respect arbitral awards and it again acknowledges devotion to the principle of arbitral settlements even in the face of a decision proclaiming certain theories of law which it cannot accept. Faithful to its traditional policy, my Government is most desirous to promote the judicial determination of international disputes of a justiciable character and in this interest to give its due support to judicial determinations.

It is because of this established policy that my Government especially regrets that it seems to be necessary to refer to statements contained in the present Award, but with due regard for the maintenance of the principles of international law, my Government finds itself compelled to say that it cannot accept certain apparent bases of the Award as being declaratory of that law or as hereafter binding upon this Government as a precedent.

The Award deals with the principle governing the requisitioning power of a belligerent State and the maintenance of correct principle in this matter, quite apart from its application in the present

[13] 42 Stat. 1280.

case, is of no little importance. The Award recognizes the requisitioning power of a belligerent but would seem to apply a limitation on its exercise, where the property concerned is that of neutral aliens, by defining the extent of the emergency and its termination, and by enhancing damages accordingly, thus subjecting the Government to a different test and a heavier burden where the property is owned by neutral nationals than in the case where it is owned by nationals of the requisitioning State. No such duty to discriminate in favor of neutral aliens is believed to be imposed upon a State by international law, with respect to property such as is concerned in the present case. It is the view of this Government that private property having its situs within the territory of a State (and the property here concerned is wholly that of private individual claimants on whose behalf the Kingdom of Norway is merely the international representative), including as in the present case property produced or created therein and never removed therefrom, is from the standpoint of international law subject to the belligerent needs of the territorial sovereign quite regardless of the nationality of the owners, provided that in case of its requisition just compensation be made. Due process of law applied uniformly, and without discrimination to nationals and aliens alike and offering to all just terms of reparation or reimbursement suffices to meet the requirements of international law; and thus the requisitioning State is free to determine the extent and duration of its own emergency. In apparently maintaining a different principle, the Tribunal is believed to have proposed and applied an unwarranted rule against which the Government of the United States feels obliged to protest and under which it must deny any obligation hereafter to be bound.

It is also to be regretted that the Award fails to give a satisfactory explanation of the manner in which the Tribunal has arrived at the amounts awarded. While purporting to award compensation on the basis of the fair market value of the property taken, the Tribunal has seen fit to omit discussion of the particular circumstances of the different claims or of the methods of calculation applied, or of the reasons for determining upon the amounts awarded in each case. Indeed, any definite disclosure or specification of the particular grounds of the awards to the respective claimants is so entirely lacking that the Award gives to one who examines it no clue to the method of determining why one amount was awarded rather than another. Again, although holding that claimants were entitled to interest and that some claimants were entitled to higher rates of interest than others, the Tribunal does not reveal the rates of interest which were allowed on the various claims or the period of time for which interest was calculated or the amounts which were awarded as principal and the amounts awarded as interest.

The inadequacy of the Award in these respects is particularly regretted in view of the requirements of Article 79 of the Hague Convention of October 18, 1907, pursuant to which the Norwegian claims were submitted to arbitration, that the Award must give the reasons on which it is based. In these circumstances the Government of the United States, while not rejecting the Award, feels obliged to direct attention to the requirements of appropriate arbitral procedure, and to state that it cannot accept as proper or satisfactory in international arbitrations the mode by which the Tribunal has assessed damages or the absence of a reasoned statement indicative of the methods of their computation.

In making these observations this Government has no desire to be controversial, much less to enter upon an exhaustive or critical discussion of the Award, or to intimate acquiescence in the expressions of the Tribunal upon other points not above mentioned, the purpose being simply to point out, not in opposition to, but in support of, the principle of arbitration, that the Award cannot be deemed by this Government to possess an authoritative character as a precedent.

Accept [etc.] CHARLES E. HUGHES

411.57 N 83/596

The Norwegian Chargé (Steen) to the Secretary of State

WASHINGTON, *July 19, 1923.*

MR. SECRETARY OF STATE: With reference to Minister Bryn's note of March 3,[14] last, I have the honour to inform Your Excellency that my Government has taken knowledge of the observations which the Government of the United States through Your Excellency's note of February 26 last has put forth with reference to the Award of the Tribunal of Arbitration rendered on October 13, 1922, at The Hague under the Special Agreement concluded between Norway and the United States of America on June 30, 1921, for the purpose of adjusting by arbitration certain claims of Norwegian subjects against the United States arising out of requisitions by the United States Shipping Board Emergency Fleet Corporation.

Acting under instructions from my Government I have now the honour to inform Your Excellency that the Norwegian Government, which as far as it is concerned must maintain that the Award of the Court is correct as well in regard to its form as to its realities, might have felt tempted to enter more closely into the observations which have been made by the American Government. My Government has, however, to its satisfaction noted that the American Government in making its observations has no desire to be con-

[14] Not printed.

troversial and my Government therefore does not find any reasons for entering upon a discussion of the principles of law put forth in the Award and the theories concerning judicial questions expressed by the Tribunal. With special reference to the question as to whether the decision under a later Arbitration case can be deemed to possess a character as a precedent there is, in the opinion of my Government, no reason to enter upon a discussion thereupon, this question coming completely within the jurisdiction of the Court of Arbitration concerned irrespective of the opinions of the parties in the previous case of arbitration.

Please accept [etc.] DANIEL STEEN

AGREEMENT BETWEEN THE UNITED STATES AND NORWAY, SIGNED NOVEMBER 26, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 4, 1908 [15]

Treaty Series No. 680

Agreement between the United States of America and Norway, Signed at Washington, November 26, 1923 [16]

The Government of the United States of America and the Government of the Kingdom of Norway, desiring to extend for another five years the period during which the Arbitration Convention concluded between them on April 4, 1908, and extended by the Agreement concluded between the two Governments on June 16, 1913,[17] and further extended by the Agreement concluded between the two Governments on March 30, 1918,[18] shall remain in force, have respectively authorized the undersigned, to wit: Charles Evans Hughes, Secretary of State of the United States of America, and Mr. Helmer H. Bryn, Envoy Extraordinary and Minister Plenipotentiary of Norway in the United States, to conclude the following Agreement:

ARTICLE I

The Convention of Arbitration of April 4, 1908, between the Government of the United States of America and the Government of the Kingdom of Norway, the duration of which by Article IV thereof was fixed at a period of five years from the date of the exchange of ratifications, which period, by the Agreement of June 16, 1913, be-

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[15] For text of convention of 1908, see *Foreign Relations*, 1908, p. 663.

[16] In English and Norwegian; Norwegian text not printed. Ratification advised by the Senate, Dec. 18, 1923; ratified by the President, Jan. 25, 1924; ratified by Norway, Jan. 11, 1924; ratifications exchanged at Washington, Mar. 8, 1924; proclaimed by the President, Mar. 12, 1924.

[17] *Foreign Relations*, 1914, p. 970.

[18] *Ibid.*, 1918, p. 851.

tween the two Governments was extended for five years from June 24, 1913, and was extended by the Agreement between them of March 30, 1918, for the further period of five years from June 24, 1918, is hereby extended and continued in force for the further period of five years from June 24, 1923.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Norway, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

DONE in duplicate in the English and Norwegian languages at Washington this 26th day of November, 1923.

CHARLES EVANS HUGHES [SEAL]
HELMER H. BRYN [SEAL]

711.5712/24

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, *November 26, 1923.*

SIR: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and the Government of Norway, April 4, 1908, and renewed from time to time, I have the honor, in pursuance of our informal conversations, to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague.[19] As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of Norway will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.] CHARLES E. HUGHES

[19] Vol. I, pp. 1 ff.

711.5712/27

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, *November 26, 1923.*

SIR: With reference to the note which Your Excellency has been good enough to address me today in connection with the signing of an agreement for the renewal of the Convention of Arbitration concluded between Norway and the United States, April 4, 1908, and renewed from time to time, I have the honor to state that I have been authorized to confirm, and I hereby do confirm that, in the event that the Senate gives its assent to the proposal made to it by the President of the United States that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at the Hague, the Government of Norway will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.] HELMER H. BRYN

STATEMENT BY NORWAY OF ITS PARAMOUNT INTEREST IN THE ISLAND OF JAN MAYEN IN THE ARCTIC OCEAN

857.014/–

The Norwegian Chargé (Arentz) to the Secretary of State

WASHINGTON, *February 9, 1920.*

MR. SECRETARY OF STATE: According to instructions from my Government I have the honor to communicate to the United States Government that a Norwegian citizen, Christoffer Evensen Ruud, has occupied the island Jan Mayen, situated in the Arctic Ocean between the west coast of Norway and Greenland. Mr. Ruud informed the Norwegian Government in letter of August 19, and November 12, 1917, that he had occupied the said island during an expedition with the cutter "Jonas" in August 1917, and that he intended to prospect for ore and minerals, to establish a station for catch of animals, to start seal-oil manufacturing and ore washing. Mr. Ruud has asked that his occupation of the island be notified to the United States Government.

I have the honor to communicate this matter to Your Excellency with a view that it be brought to the knowledge of the appropriate authorities of the United States.

Please accept [etc.] ERIK ARENTZ

857.014/–

The Acting Secretary of State to the Norwegian Chargé (Arentz)

WASHINGTON, *February 26, 1920.*

SIR: I beg to acknowledge the receipt of your note of February 9th in which you inform me of the occupation of the island of Jan Mayen, in the Arctic Ocean, by Christoffer Evensen Ruud, a Norwegian citizen, during an expedition in August, 1917, for the purpose of prospecting for ore and minerals, to establish a station for catch of animals, and to start seal oil manufacturing and ore washing. I have taken pleasure in communicating this information to the appropriate branch of this Government.

Accept [etc.]

For the Acting Secretary of State:
ALVEY A. ADEE

857.014/2

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, *April 21, 1922.*

MR. SECRETARY OF STATE: Acting under instructions from my Government I have the honor to inform Your Excellency that Mr. Hagbard Ekeroll, Civil Engineer, in a telegram from Jan Mayen of January 16, 1922, has reported to the Department for Foreign Affairs at Christiania, that he in the name of the Norwegian Meteorological Institute (Det Norske Meteorologiske Institut) has annexed, with a view to permanent occupation, a territory of the unowned and up till now uninhabited Island of Jan Mayen in the Arctic Ocean, situated about 71 degrees north latitude and 8 to 9 degrees west longitude. The territory is to the West bounded in a line pointing the true South from a sign of annexation on the southern side of Wallrossgat to a sign of annexation at the Drivvedbukten; to the East the territory is bounded in a line pointing the true W. N. W. from a sign of annexation at the Presidentklippen to a sign of annexation at the northern end of the Nordlagunen; otherwise the territory is surrounded by the ocean. The part of the territory which is situated between the Kalbeierinsel and the Turnbuent has been occupied since August 8, 1921, by the Geophysical Expedition which has been conducted by Mr. Ekeroll, and the whole territory as above described has been occupied since November 12, 1921. During the summer and the fall of 1921 a wireless station has been erected on the territory.

I avail myself [etc.]

H. BRYN

857.014/2

The Secretary of State to the Minister in Norway (Swenson)

No. 66 WASHINGTON, *November 9, 1922.*

SIR: The Department encloses for your information copies of notes dated February 9, 1920, and April 21, 1922,[20] from the Norwegian Legation at this capital relating to the alleged occupation and annexation by subjects of Norway of the island of Jan Mayen, situated in the Arctic Ocean between Norway and Greenland.

The question of the nationality of this island has recently been considered by the Department, but the information in its possession has not permitted a definite decision in the matter. You are accordingly requested to make discreet inquiries whether the Norwegian Government in fact claims the ownership of the island, and if so, you will submit to the Department, if possible, a complete statement of the facts on which its claim to ownership is based.

I am [etc.]

For the Secretary of State:
ALVEY A. ADEE

857.014/4

The Minister in Norway (Swenson) to the Secretary of State

No. 244 CHRISTIANIA, *July 5, 1923.*
[Received July 18.]

SIR: Referring to the Department's No. 66, of November 9, 1922, (File No. 857.014/2), relating to the alleged occupation and annexation by subjects of Norway of the island of Jan Mayen, I have the honor to enclose herewith copy, with translation, of a note from the Foreign Office, dated June 30, 1923, in reply to mine of December 5, 1922, inquiring whether the Norwegian Government claims the ownership of the island and requesting a complete statement of the facts on which the claim of ownership is based.

I have [etc.] LAURITS S. SWENSON

[Enclosure—Translation]

The Norwegian Minister for Foreign Affairs (Michelet) to the American Minister (Swenson)

CHRISTIANIA, *June 30, 1923.*

MR. MINISTER: In a note dated December 5th last regarding the occupation and annexation by the Norwegian Meteorological Institute

[20] *Supra.*

of a part of the island of Jan Mayen you state that your government has recently considered the question of the nationality of this island and that in order to enable it to arrive at a definite decision in the matter it desires additional information. In that connection you desire to be informed if the Norwegian Government claims ownership of the island.

In reply I have the honor to state that in conformity with the general view relative to the international status of the island the Norwegian Government is of the opinion that it should be considered as "terra nullius". It has so stated in a note of April 21, 1922 communicated to the Secretary of State of the United States through the Norwegian Minister at Washington, in connection with the occupation of Jan Mayen in the fall of 1921 by the Norwegian Government institution: The Norwegian Meteorological Institute. It has also expressed these views in its notes to other governments on that occasion.

On the other hand the Norwegian Government assumes that there cannot arise any question of the annexation of the island by any other power, in as much as no other country has even approximately as great interests to safeguard there as Norway; interests which appear for instance from the fact that the Norwegian Meteorological Institute has established a wireless meteorological station on Jan Mayen. The timely warnings of the violent Northwest storms which sweep through the open space between Spitsbergen and Iceland have already proved of extraordinary value for Norway, particularly for the fisheries along the Norwegian coast; and also for Norwegian agriculture. It has been of great value to Northern Europe as a whole. By these means, which have been generally commended by foreign meteorological institutions as well as by foreign governments, Jan Mayen has been enlisted in the service of international weather forecasting and a great gap in the international observation system has thus been filled. I may add that the island possesses great value for Norway as a station for Norwegian sealers in the operations which they have conducted in these waters for so long a time.

Accept [etc.] C. F. MICHELET

ARRANGEMENT BETWEEN THE UNITED STATES AND NORWAY FOR RECIPROCAL EXEMPTION FROM INCOME TAX ON SHIPPING[21]

811.512357 Shipping/19

The Norwegian Minister (Bryn) to the Secretary of State

[Extract]

WASHINGTON, *February 13, 1922.*

MR. SECRETARY OF STATE: With reference to Your Excellency's note of December 21, last,[22] in regard to the American Revenue Act for 1921, Paragraph 8, Section 213, containing exemption from taxation of ships of a foreign country granting equivalent exemption to citizens of the United States, I have the honor, by order of my Government, to inform Your Excellency that foreign shipping is at present in fact exempt from taxation in Norway.

The afore-said provision being incorporated in the new American Revenue Law the Norwegian Government begs to express the hope that such measures may be taken as will have the effect of making this provision effective not only from January 1, 1921, but also will cover the years 1917, 1918, 1919 and 1920.

. . . . . .

I avail myself [etc.] H. BRYN

811.512357 Shipping/21

The Norwegian Minister (Bryn) to the Acting Secretary of State

WASHINGTON, *February 28, 1922.*

MR. ACTING SECRETARY OF STATE: With reference to my note of February 13, last, in which was stated that foreign shipping is in fact exempt from taxation in Norway I now have the honor to inform your Excellency that, according to information received from my Government, the Norwegian taxation acts of August 18, 1911, contain the following provision: "The question whether foreign steamship-companies are to be taxed for operating a service of liners on Norwegian ports and in case to what an extent such a taxation is to be imposed, is to be decided by the King". There has, however, not been issued any regulations under this provision about taxation of foreign steamship companies operating a service of liners on Norwegian ports. As to taxation of other foreign shipping trade on Norwegian ports no provision is contained in our taxation acts.

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[21] For identic notes, dated June 16 and 17, 1920, submitted severally by Denmark, Norway, and Sweden, see under Denmark, vol. I, p. 881.

[22] Not printed; the note is the same, *mutatis mutandis*, as the note of Dec. 21, 1921, to the Danish Minister, vol. I, p. 886.

Such shipping is therefore at present not taxed in Norway at all, and the exemption of foreign shipping from taxation in Norway has thus been effective even further back than January 1, 1917.

In connection herewith my Government has also informed me that specific statutes regarding the exemption from taxation of foreign shipowners are now being framed in Norway.

Under these circumstances I beg again to express the hope that necessary measures may be taken by the United States Government in order to secure that the tax-exemption for Norwegian shipowners in this country may be valid not only from January 1, 1921, but also include the years 1917, 1918, 1919 and 1920.[23]

I avail myself [etc.] H. Bryn

811.512357 Shipping/31

The Secretary of State to the Norwegian Minister (Bryn)

[Washington, *November 14, 1922.*]

Sir: With further reference to your note of October 5, 1922,[24] in which you ask to be advised whether the Revenue Act of 1921, Section 213, Paragraph 8, exempts Norwegian shipping corporations from all taxes so long as Norway does not tax American shipping corporations operating ships which use Norwegian ports, I have the honor to inform you that, inasmuch as Norway apparently satisfies the equivalent exemption provision of Section 213 (*b*) (8) of the Revenue Act of 1921, it has been ruled that the income of a non-resident alien or foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of Norway, is exempt from income and excess and war profits taxes.

In answer to the inquiry made in the penultimate paragraph of your communication under reference, concerning the liability of Norwegian shipping corporations to capital stock tax, I have the honor to advise you that Section 1000 (*a*) (2) and Section 1000 (*b*) of the Revenue Act of 1921 provides that:

"Sec. 1000 (*a*) (2) Every foreign corporation shall pay annually a special excise tax with respect to carrying on or doing business in the United States, equivalent to $1 for each $1000 of the average amount of capital employed in the transaction of its business in the United States during the preceding year ending June 30."

"Sec. 1000. (*b*) The taxes imposed by this section shall not apply in any year to any corporation which was not engaged in business (or, in the case of a foreign corporation, not engaged in business

[23] For the position taken on the question of retroactive tax exemption, to which no reply was made to the Norwegian Government, see the note of Aug. 9, 1922, to the Swedish Chargé, *post*, p. 878.

[24] Not printed.

in the United States) during the preceding year ending June 30, nor to any corporation enumerated in section 231, nor to any insurance company subject to the tax imposed by section 243 or 246."

The basis for the tax in the case of foreign corporations is the "carrying on or doing of business" in the United States. Any foreign corporation which enters the United States for the purpose of its business in any manner is liable to this special excise tax. There is no provision in the Revenue Act of 1921 for the exemption of any foreign corporation, shipping or otherwise, from capital stock tax as long as it is doing business in the United States.

It is, therefore, held that the equivalent exemption satisfied by Norway in accordance with the provisions of Section 213 (*b*) (8) of the Revenue Act of 1921 has no application in so far as capital stock tax is concerned.

Therefore, Norway shipping corporations "carrying on or doing business" in the United States come within the purview of Section 1000 (*a*) (2) of the Act and will be required to file capital stock tax returns, Form 708, and pay tax equivalent to $1 for each full $1,000 of the average amount of capital employed in the transaction of its business in the United States during the preceding year ended June 30.

Accept [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

PANAMA

ANNOUNCEMENT BY THE UNITED STATES OF INTENTION TO ABROGATE THE TAFT AGREEMENT[1]

611.1931/45½

Memorandum by the Secretary of State of a Conversation with the Panaman Minister (Alfaro), January 4, 1923

The Minister left a long note with the Secretary[2] and explained orally that he did so to set forth the position of the Government of Panama in relation to negotiations which were about to begin for the purpose of making a treaty to take the place of the Taft Agreement. The Minister explained that his Government was desirous of approaching the matter in the most friendly and conciliatory spirit. The Secretary said that the matter of the abrogation of the Taft Agreement was before Congress, and that as soon as it had been abrogated so as to open the way for negotiations this Government would be pleased to take the matter up with Panama. He was gratified at the statement made by the Minister and could assure him that this Government desired to deal with the matter in the same friendly spirit.

611.1931/45

The Panaman Minister (Alfaro) to the Secretary of State

[Translation[3]]

WASHINGTON, *January 3, 1923.*

MR. SECRETARY: When the Republic of Panama seceded from Colombia in 1903[4] and gained the recognition of its independence by the Government of the United States, soon followed by that of the leading nations of the world, the main question which arose was the negotiation of a treaty for the construction of the interoceanic canal, as the rejection of the Canal treaty by the Colombian Congress was the main cause of the separation of Panama.

The general opinion at that time, and it so appeared in the press of the United States, was that the same treaty that had been con-

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[1] For previous correspondence concerning U. S. intention to abrogate the agreement, see *Foreign Relations*, 1922, vol. II, pp. 761–762.

[2] See *infra*.

[3] File translation revised.

[4] See *Foreign Relations*, 1903, pp. 224 ff. and 689 ff.

cluded with the Republic of Colombia [5] would be concluded with the Republic of Panama, which idea wholly accorded with justice, since there was no reason for letting the Republic of Colombia, which had thrown obstacles in the way of the construction of the Canal, get better terms and conditions than the Republic of Panama, which stood ready to facilitate in every way the opening of the great maritime highway.

The treaty of November 18, 1903,[6] was negotiated and concluded in the hasty manner known to the whole world and without waiting for the arrival of the Panaman Commissioners who had been sent by the Government of Panama to negotiate and sign the treaty; and contrary to general expectation, there were introduced various modifications which made the treaty with Panama less advantageous to our nation than the treaty with Colombia.

The joint jurisdiction over the Canal Zone provided by the Hay-Herran treaty was replaced by the absolute and exclusive jurisdiction of the United States and the term of ninety-nine years [7] was replaced by a concession in perpetuity. With respect to indemnification for damages done or property taken in connection with the construction of the Canal there was introduced a clause (article VI) the terms of which have been used for interpretations by American officials which on more than one occasion took the shape of palpable injustice to Panaman claimants. Without indulging in a detailed comparison point by point, it may be asserted without fear of mistake that the new treaty in a general way contained more concessions to the United States than did the Hay-Herran treaty.

It is certain that the new treaty contained the guarantee of the independence of Panama and it might be observed that this guarantee was a compensation for many of the new concessions which had been agreed to by Minister Bunau-Varilla. But that guarantee was not a concession for the exclusive benefit of the Republic of Panama. It was at the same time a safeguard for the construction of the Canal, as it is evident that the United States would have found it physically and legally impossible to build the Canal and maintain its jurisdictional rights within the Canal Zone if it had been possible for any power to destroy the independence of the Republic of Panama.

Notwithstanding that circumstance, the general sentiment of the Republic of Panama was that the territorial concessions and rights granted by the Republic were a necessary sacrifice to bring about the

[5] See *ibid.*, pp. 132 ff. For text of the Hay-Herran treaty, see *Diplomatic History of the Panama Canal* (S. Doc. 474, 63d Cong., 2d sess.), p. 277.

[6] *Foreign Relations*, 1904, p. 543.

[7] Arts. II and III of the Hay-Herran treaty provided for a term of one hundred years, not ninety-nine years as here stated.

successful building of the Canal and that the Panamans would find full compensation in the great welfare, progress, and general development that would result from the great work of the Canal and the investment of millions of dollars needed for the work.

The same impression prevailed among the American statesmen, press, and public. It will be remembered that when the Panaman Commissioners who were entrusted with the negotiation of the Canal treaty complained to Secretary Hay that the treaty had been signed about midnight on the 18th of November at Mr. Hay's private residence, barely two or three hours before the Panaman Commissioners arrived in Washington, as if it had been the earnest desire that the Panaman plenipotentiaries should not negotiate the treaty, Secretary Hay remarked to Commissioners Amador and Boyd that the benefits that the Republic of Panama would draw from the construction of the Canal would be so immense that the modifications introduced in the Hay-Herran treaty when the Hay-Varilla treaty was drawn up were nothing as compared with those benefits.

President Roosevelt was of the same opinion, as may be seen from his letter of October 19, 1904, to Mr. Taft [8] in which he said:

"The United States is about to confer upon the people of the Republic of Panama great benefits through the expenditure of millions of dollars on the construction of the Canal. But this fact should not blind us to the point of preventing us from seeing the importance of exercising the right that has been given to us through the treaty with Panama in a manner which prevents even suspicion, no matter how groundless, to arise concerning our future intentions. We do not intend in the least to establish an independent colony in the center of the State of Panama or to exercise governmental functions broader than is necessary to enable us to build, maintain, and operate the Canal, in accordance with the rights given us by the treaty. Nothing is farther from our wish than standing in the way of business and prosperity of the people of Panama."

It was also thought in Panama that the United States, which had already showed itself friendly and liberally inclined towards small nationalities, would never assume an attitude that might cause alarm to the Republic of Panama with respect to the Canal treaty and its application.

Nevertheless, when the transfer of jurisdiction over the Canal Zone to the United States took place the people of Panama were seized with great alarm and excitement owing to the occupation of the ports of Ancon and Cristobal, which were the "ports adjacent" to the cities of Panama and Colon spoken of in the treaty, whereby the two cities were deprived of their harbors and made to depend on the terminal ports of the Canal for their foreign commerce. It is true

[8] Not printed.

that on January 19, 1904, Minister Bunau-Varilla sent to Secretary Hay a note [9] in which he offered a certain explanation or interpretation which served to justify the taking of the two ports by the United States. It is also true that the said note, although it was not previously authorized or duly considered, was subsequently approved by the then Secretary of Foreign Relations, Doctor Espriella. But the fact is that the people of Panama never understood that by virtue of the Canal treaty the Republic was to lose the two ports through which it carried on its import and export trade, and the acute controversy which followed the taking of the two ports was what moved President Roosevelt to send to Panama his Secretary of War, Mr. William Howard Taft, who concluded with the Panaman Government the agreement which since then has been bearing his name.

The history of that agreement may be condensed as follows:

In June 1904 the Governor of the Canal Zone issued an Executive order [10] which opened that strip of land to the commerce of the world. He declared the terminal ports of the Canal open for importation and exportation. He put into effect within the Canal Zone the protective tariff in force in the United States and known as the Dingley Tariff and finally obtained independent customs and post offices.

Panama immediately protested in the most energetic way against all those measures which it considered to be in violation of the Canal treaty. Panama maintained that the Canal Zone could not be considered as a political entity able to maintain international relations of any kind with the outside world; that the ten-mile zone had been ceded to be used and occupied for the sole and specific purpose of the construction of the Canal; that the governmental functions of the United States in the Canal Zone were to be confined to the maintenance of public order and the administration of justice. In other words, the American Government's functions in the zone were to be confined to that which would be strictly necessary to carry out the original purpose of the construction of the Canal and should not include as a result the converting of the zone into a competing entity which by reason of its privileged geographical position and its colossal backing would have destroyed the commercial and economic privilege of the Republic of Panama.

The official correspondence of the time shows how lively was the debate that took place. To the Panamans the interpretation of the Canal treaty as given by the zone authorities, was a question of life or death. The Panamans, therefore, upheld its cause with ardor. The Government of the United States did not turn a deaf ear to the

[9] *Foreign Relations*, 1904, p. 608.
[10] See *ibid.*, p. 586.

claim of Panama in the diplomatic controversy. President Roosevelt made the solemn declaration that the United States "had not the slightest intention to establish an independent colony in the midst of the State of Panama" and ordered Mr. Taft to visit the Isthmus.

After laborious negotiations the Taft Agreement was effected in December, 1904.[11] This agreement determines the juridical status of the Canal Zone. No foreign merchandise of any kind or any origin could be imported into the Canal Zone without paying to the Republic of Panama the proper customs duties unless it was imported by the Government of the United States for the Canal and its employees. Shipments of merchandise for zone harbors were to be cleared by consuls of Panama abroad. The post offices of the Canal Zone are operated as domestic American post offices; but postage is paid by means of stamps of the Republic of Panama surcharged "Canal Zone" and these stamps are bought from the Republic of Panama at a discount from their face value. Finally, at a time when the Canal Zone was inhabited by a civilian population, the natural products of the soil which were exported from the zone paid export duty to the Republic of Panama.

All these stipulations agreed with the theory of the Panaman Government that the jurisdiction of the Canal Zone, from an international point of view—that is to say, insofar as exports and imports are concerned—never ceased to belong to the Republic of Panama. Panama always maintained that its jurisdiction over the foreign commerce never was transferred by the Canal treaty, since the object of the treaty was to give to the United States all that was necessary for the construction, maintenance, operation, sanitation, and protection of the Canal, but nothing more; and it further insists that in order to achieve those ends the United States does not and never did need to convert the Canal Zone into a colony or international entity to deal a deadly blow to the very nation which rent apart its territory so as to facilitate the opening of the great maritime highway which was of such vital importance to the commerce of the world and to the strength and safety of the United States, considered as a great world power.

For the Republic of Panama the Taft Agreement further constitutes a sort of legalization of the occupation by the United States of the terminal ports of the Canal—namely Ancon or Balboa on the Pacific, and Cristobal on the Atlantic. Those ports, as above stated, were not ceded by Panama under the Canal treaty, because, notwithstanding Señor Bunau-Varilla's note, the binding force of which was very questionable, those ports were the "ports adjacent" to the

[11] *Foreign Relations*, 1904, p. 640.

cities of Panama and Colon and were specifically excluded from the Canal Zone by article II of the treaty.

Although it is true that the Taft Agreement succeeded in solving fundamental problems, and that insofar as those problems are concerned, it constitutes a happy interpretation of the treaty, it is also a fact that since 1904 there have arisen a number of controversies touching the application of certain clauses of the Canal treaty, and Panama has reached the conclusion that it is necessary once for all to arrive at an agreement that will rid the treaty of its indefinite character in regard to the sum of the concessions which the Republic is bound to make. According to the letter of the treaty Panama appears to be bound indefinitely to give the land and water that may be necessary for the construction of the Canal. According to the letter of the treaty, under the notoriously unjust interpretation put upon it by some of the officials of the Canal Zone, Panama appears to be bound to accept the prices of 1903 for the land or property taken from its inhabitants 20, 50, or 100 years later, but justice points to the fact that the construction of the Canal is now completed and that it has been in satisfactory operation since 1913; that the fortifications of the Canal have also been erected and that therefore these vague, indefinite, and unilateral clauses may not stand permanently and the time has now come to stipulate and join in formal declaration, that the United States has finally taken all the land and property needed for the construction, conservation, operation, sanitation, and protection of the Canal.

The differences that have taken place frequently sprang from the fundamental fact that while the Republic of Panama holds that the use, occupation, and control of the Canal Zone were granted for the specific ends of the construction of the Canal and that the Canal did and does mean to the United States something higher than a mere investment of capital with a speculative object, yet some of the officials who have been in charge of its government seem to labor under the impression that it is a mere business which must yield profits and from which they proposed to draw profits without taking into account, or giving consideration to, the interests of the Republic of Panama, which underwent such heavy sacrifices when it signed the treaty of November 18, 1903.

Although it is true that the Republic has achieved a perceptible amount of progress and welfare from 1903 to the present day, it is clear that this is not entirely due to the building of the Canal, as is shown by the example of other nations, and other places within the Republic itself, which in the same period have also achieved progress and welfare without being close to the Canal works.

Panama had reason to hope for progress and development much greater than that which took place within its territory, but the exaggerated millions which were to circulate in Panama proved nothing but a delusion. The millions that have been spent in the construction of the Canal remained in the United States and a negligible portion only remained in Panama. The reason for this is that the work of the Canal was carried to completion in a manner which did not give Panaman trade and capital a chance to derive large benefits from the construction of the Canal. The traders found that their business was enormously hurt by the extraordinary development given to the railway or Canal commissaries where the employees and laborers of the Canal may buy anything from necessities to luxuries; also the large smuggling that has been practiced in articles bought from the commissaries and post exchanges with the knowledge and connivance of the American authorities, who in many instances have refused to apply the remedies suggested by the Panaman authorities to do away with smuggling. The house-renting business has not developed to the extent that it might have developed on account of the enormous number of houses built by the Canal authorities to rent not only to the employees of the Canal but also to a large proportion of its laborers, and which now, in spite of the protests of Panama, are for rent to the general public. The hotel business is in a deplorable condition on account of the ruinous competition of the Washington Hotel at Colon and the Tivoli Hotel at Panama which prevents private capital from successfully engaging in that business in the presence of so formidable a competitor as the Government of the United States. The laundry business, which it was hoped would furnish abundant work for the women of the country who might try it in a small way and private capital that engaged in it on a larger scale and with machinery within the cities of Panama and Colon, is also breaking down on account of the large laundries established in the Canal Zone. The business of supplying provisions and stores to vessels passing through the Canal has fallen exclusively into the hands of the Canal authorities, in flagrant violation of the Taft Agreement, which only permits the United States to supply ships with coal and oil for fuel. It is only in the last two years, and under great restriction, that private persons of Colon have been allowed to do business with the vessels that pass through the Canal. Even the business of affording amusement to the public has been injured by official competition. The Canal Administration keeps in the zone moving-picture theaters and other kinds of public amusements which it was hoped could have been made the business of persons residing in the cities of Panama and Colon, to whom undertakings of that kind would have meant a large amount of pros-

perity. The railway company, which is operated as a private undertaking when it is engaged in certain activities, but which insists that it is the Government of the United States itself when it comes to paying taxes, has invaded the most varied fields of business. The railway company runs commissaries, stables, garages, express service within the cities of Panama and Colon, dairies, bakeries, poultry raising, cattle raising, hog raising, slaughtering, cold storage plants, soap manufactories, laundries, coffee-roasting plants, sausage and canned goods factories, blacksmith shops, carpenter and cooper shops, to say nothing of its enormous business of collecting land rents on the lots which it owns in the cities of Panama and Colon.

Yet, however discouraging these conditions may be, the people of Panama show themselves profoundly alarmed by the greater extent the Canal authorities appear to intend to give to the activities of the Canal and the railway company through their plan to have the Taft Agreement superseded by some other agreement which would enable them to make of the Canal an undertaking even more flourishing than it is at present, to the detriment of the Republic of Panama. Although the Taft Agreement does not constitute all that could be desired by Panama it does recognize to a certain point the fiscal jurisdiction of Panama over the Canal Zone, and it prevents the said zone from being opened to the commerce of the world and a situation which President Roosevelt said was beyond the intention and purpose of the United States from being created in this way. If, therefore, the Canal authorities contemplate establishing an independent colony in the midst of the Republic of Panama in spite of the solemn assurances given to the people of Panama by President Roosevelt that the United States did not intend to establish such a colony or do anything that might injure or endanger its legitimate interests and rights, the Government of Panama cannot agree to any amendment of the Taft Agreement likely to bring about such results.

Panama claims as a right derived from the Canal treaty, and confirmed by the Taft Agreement, jurisdiction over the foreign trade of the Canal Zone.

It is proper to remark that the zone has not been sold, transferred, or alienated by the Republic of Panama to the United States in full ownership. The wording of the treaty is very clear. That which was ceded is the use, occupation, and control of the zone for the specific needs of the construction, conservation, operation, sanitation, and protection of the Canal. If the Canal were abandoned by the United States the United States would have no legal ground for occupying the zone, title to which it has not acquired either by purchase, transfer, or conquest. Further, the Canal Zone has not been even leased to the United States because the annual payment of two hundred and fifty

thousand dollars which it undertook to make under the Canal treaty was not stipulated as a fee for the use of the zone. That payment constitutes merely a compensation for the concession by the Republic of Panama of its rights to collect that amount from the railway company and other rights which it had on the same concern under the contract entered into with that company and the Colombian Government, whose place was taken by the Panaman Government when secession was achieved. The company, under the contract, paid that annuity to the Government, and if there had been no Canal treaty either Colombia or Panama would have continued to collect it.

The Government of Panama is not informed of the amendments which Your Excellency's Government, by means of the suggestions of the Canal authorities, intends to propose in the new agreement which is to take the place of the Taft Agreement. Therefore the Legation is not in a position to express any opinion whatsoever on the subject until those intentions are known. It is, however, proper to inform the Department of State that the Government of Panama indulges the hope of settling by means of a protocol or in some other manner the various questions concerning which I spoke in the note I had the honor to address to Your Excellency on the second of April, 1921.[12] The questions dealt with in that note were the following: Concessions of more land for the work of the Canal; necessity of determining the extent of land needed for the Canal; concession of land for fortifications; method of appraising the land condemned for the Canal; legal status of the railway company concerning (*a*) land in the city of Colon, (*b*) water and sewer tax on the land of the railway company, (*c*) payment of general tax by the company, and (*d*) the differential tariff set up by the railway to the injury of the Panaman trade; the very important question of the commissaries, with especial reference to (*a*) the introduction of luxury articles, (*b*) smuggling, and (*c*) sales to vessels passing through the Canal; the question of facilities for maritime transportation; the question of foreign companies established in the Canal Zone; the question of manifest fees; and finally the question of the cemetery for the city of Colon.

Besides these, there are other questions concerning which Panama also desires to arrive at some understanding or settlement tending to secure its rights and aspirations. Among these are the question of the renting of houses in the Canal to private persons; the establishment of storage warehouses in the Isthmus; the concession of facilities to the merchants of Colon and Panama in supplying stores and other material to ships passing through the Canal; the establishment of Panaman customs stations in the terminal ports of the Canal

[12] *Foreign Relations*, 1922, vol. II, p. 751.

for the clearing and examination of merchandise, baggage, and passengers for the cities of Colon and Panama; the regulation and effectiveness of the passport formalities in cases of persons going to the territory of the Republic through the ports of the Canal Zone; the operation of the Volstead law in the Canal Zone so as not to hamper the free traffic through the zone and Canal ports between Panama and foreign countries and between various points of the Republic; the control of wireless communications within the territory of the Republic; the proper delimitation of the functions exercised by the health service in the cities of Panama and Colon in order to avert conflicts between them and our laws and public officials; the settlement of the difficulties pending with regard to the collection of the tax by which the costs of the water pipes and sewers laid in the cities of Panama and Colon for the account of the Republic are to be paid; and the question of land communication between those cities and the rest of the Republic.

Panama wishes to give the most emphatic expression of its wish to cooperate with the Government of the United States in all that may be necessary to secure the efficacious operation of the Canal as well as its full protection; but the people and Government of Panama expect the United States when proposing the new agreement to be animated by the same spirit of cordial friendship which inspired President Roosevelt and Secretary Taft at the time the Taft Agreement was effected.

Concessions which in practice mean nothing to the United States are to the Republic of Panama, on account of its size and the state of its development, questions of life or death. I may be permitted to recall, and I do so without any malice, that the United States paid twenty-five million dollars to Denmark for three small islands, barren for the most part, and whose area does not exceed 138 square miles, while the Canal Zone and the auxiliary waters cover a surface of 462 square miles. I will be allowed to recall the payment of twenty-five million dollars by the United States to Colombia, the nation which stood in firm opposition to the construction of the Canal, while Panama received ten million dollars under the treaty which assured its construction, the treaty which involves concessions amounting for Panama to actual sacrifices. In referring to the generous attitude of the United States towards other nations, I am not actuated by any sentiment of envy or greed, but simply by the wish of expressing our hope that Your Excellency's Government may be inspired in the course of its negotiations with the same spirit of magnanimity through which the glorious American nation has taken the lead of the great powers of the earth.

In entering upon these negotiations, Panama does not wish or intend to assume the attitude of a nation whose interests are antago-

nistic to those of the United States. We wish to deal with Your Excellency's Government openly and frankly as true allies and staunch friends of the United States, and with hope to be treated likewise by a nation that can afford to be not only just but also generous.

I take [etc.] R. J. ALFARO

611.1931/57b

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, *October 15, 1923.*

SIR: The questions raised in your note of January 3, 1923, have received the most careful consideration. You discuss the negotiation of the Treaty of November 18, 1903, the Taft Agreement, and the situation at present existing in Panama, and list certain controversial matters which you feel should be adjusted.

Before presenting the views of this Government upon the various points treated in your note, I desire to emphasize the fact that this Government is animated only by the friendliest feelings towards Panama and desires to arrive at a satisfactory agreement with your Government on all matters in controversy. However, I must remind you of the vast extent of the enterprise undertaken by this Government in providing for the construction, operation and protection of the Panama Canal. It is manifest that before entering upon such an undertaking this Government had to be sure that it obtained adequate rights in the Zone and that the protection of the Canal in the future was appropriately secured. For this purpose the Canal Treaty of 1903 was made and was later supplemented by the Boundary Convention of 1914.[13] To meet certain administrative exigencies during the period of the construction of the Canal, the administrative arrangement known as the Taft Agreement was effected. This arangement, however, was of a temporary nature in order to serve more conveniently the situation then existing and it was expressly declared that in no wise did it affect the rights of either party to the Treaty of 1903. That Treaty forms and must continue to form the basis of the relations between the United States and Panama and provides the safeguards for the future which were deemed by this Government to be of controlling importance in making the decision to construct the Canal.

I shall reply to your observations seriatim.

You state that the Treaty of November 18, 1903, was negotiated and concluded in a hasty manner without waiting for the arrival of the Panaman Commissioners who had been sent to negotiate and

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[13] *Foreign Relations*, 1915, p. 1123.

sign the Treaty, and that contrary to general expectation various modifications were introduced which minimized the advantages to Panama as compared with those which would have accrued to Colombia in the proposed canal treaty between that country and the United States. I beg to call your attention to a telegram of November 6, 1903,[14] addressed to the Department of State by Messrs. J. M. Arango, Tomas Arias, and Federico Boyd, members of the Junta of the Provisional Government of Panama, and countersigned by Señor F. V. de La Espriella, Minister of Foreign Affairs of the Provisional Government, stating that the Provisional Government of the Republic of Panama had appointed Señor Philippe Bunau-Varilla as Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States with full powers to conduct diplomatic and financial negotiations, and requesting that he be received and heard in that capacity, and also to the letter addressed by Messrs. Arango, Boyd and Arias to the President of the United States on November 9th,[15] informing him that the Junta had resolved to accredit Señor Philippe Bunau-Varilla as Minister Plenipotentiary and Envoy Extraordinary to the Government of the United States, sufficiently authorized to celebrate public treaties with this Government. The letter requested the President to be pleased to give entire faith and credit to whatever might be represented to him by Señor Bunau-Varilla in the name of Panama and of the Junta personally. On December 3, 1903, Señor Bunau-Varilla transmitted to the Department of State a letter addressed to the Secretary of State by Señor Espriella on November 9th confirming the appointment of Señor Bunau-Varilla,[15] first as confidential agent of the Provisional Panaman Government and then as Envoy Extraordinary and Minister Plenipotentiary to the United States. The American Consul at Panama telegraphed to the Department of State on November 11, 1903:[16] "I am officially informed that Bunau-Varilla is the authorized party to make treaties".

I would, furthermore, direct your attention to the note addressed to the Secretary of State by Señor Bunau-Varilla on November 27, 1903,[15] informing him that he had been authorized by a cablegram signed by the three members of the Government and countersigned by the Minister for Foreign Affairs to declare to the Government of the United States that the Treaty of November 18, 1903 would be ratified by the members of his Government and their signatures imposed upon it as soon as the document reached the Isthmus. He stated that "the Government of the Republic of Panama further

[14] *Ibid.*, 1903, p. 239.
[15] Not printed.
[16] *Foreign Relations*, 1903, p. 235.

adds that this decision is taken in view of the approval of the Treaty by the delegates who came to Washington after the signature of said Treaty, and who could, therefore, judge its stipulations in a perfectly independent spirit." In this connection, reference may also be made to Señor Bunau-Varilla's note to the Secretary of State of December 3, 1903, detailing his requests to the management of the Panama Railroad Steamship Line to have it delay the sailing of its steamer *Yucatan* from Colon for thirty-six hours after the arrival there of its steamship *City of Washington* bearing the Treaty, in order to permit its being ratified and despatched back to Washington.

On December 10, 1903, Señor Bunau-Varilla addressed a note to the Assistant Secretary of State [17] urging the ratification of the Treaty by the United States as soon as possible without waiting for the adoption of a Constitution by Panama, and this affords additional evidence of the desire of Panama to expedite the conclusion and ratification of the Treaty. Moreover, the Treaty was afterwards submitted to the proper authority of Panama for ratification and its ratification formally and conclusively gave approval to the Treaty. Finally, I desire to call your attention to the note addressed to the Secretary of State by Señor Bunau-Varilla on January 6, 1904,[18] informing him that he had received from his Government an extract from the *Gaceta Oficial* of December 16, 1903, in which the Municipalities of Buenavista, Portobelo, David, Las Palmas, La Mesa, Toboga, Gatun, Rio-Jesus, San Francisco, and the citizens of La Mesa, Sona, and Rio-Jesus gave "in the warmest terms the expression of their satisfaction of the signature of the Convention of the 18th of November last, referring to the Panama Canal." He added "this completes the list of the elective bodies of the Republic, which have all expressed their unconditional approval of the Treaty and of its ratification by the Panaman Government. I must say that this expression of opinion is in harmony with the satisfaction of the whole country which was made conspicuous at the recent election, where, for the first time in the history of the State of Panama every citizen has been at liberty to perform his duty according to his conscience."

The Treaty was thus ratified after it had been unanimously approved not only by the Commissioners but by all the municipalities and elective bodies of the Republic and by the votes of its citizens as well, and the grounds for your objections on this point would not appear to be well founded.

With regard to your statement that Article VI of the Treaty providing for the compensation for property taken by virtue of the provisions of the Treaty for use in the construction, maintenance, opera-

[17] Not printed.
[18] *Foreign Relations*, 1903, p. 343.

tion, sanitation and protection of the Canal has been "used for interpretations by American officials which on more than one occasion took the shape of palpable injustice to Panaman claimants", and that "according to the law of the Treaty, under the notoriously unjust interpretation put upon it by some of the officials of the Canal Zone, Panama appears to be bound to accept the prices of 1903 for the land or property taken from its inhabitants twenty, fifty or one hundred years later", I beg to point out that the provisions of Article VI of the Treaty are clear and explicit with regard to the right of the United States Government to compensate for land so taken at its value prior to November 18, 1903. The treaty provides: "The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this Convention". There are no differences between the Governments of the United States and Panama which are not possible of adjustment in a manner satisfactory to both when approached in a friendly spirit, but this Government cannot consider questions broached through such general allegations against its officials as those contained in your statement that they have made notoriously unjust interpretations of the Treaty. This Government is at all times willing to take up any cases suitably presented which seem to require remedial action and also to receive the views of the Panaman Government and to discuss with it any matters which the latter feels may be better arranged, but broad assertions impugning the character and attitude of its responsible officials cannot be entertained.

With regard to your statement that it was the general impression in Panama that there would be compensation for the concessions given to the United States under the Canal Treaty in the great welfare, progress, and general development that would follow the construction of the Canal and the investment of millions of dollars needed in that work, and that Panama has not realized those benefits, I can merely express my surprise as it is a well-known fact that the Canal has brought enormous prosperity to the Republic of Panama.

You quote from a letter from President Roosevelt to Mr. Taft, dated October 19, 1904,[19] in which he stated "we do not intend in the least to establish an independent colony in the center of the State of Panama or to exercise governmental functions broader than is necessary to enable us to build, maintain and operate the Canal, in accordance with the rights given us by the Treaty".

In making this statement President Roosevelt undoubtedly gave expression to the policy of this Government,—a policy to which it

[19] Not printed.

has closely adhered—but the statement will not admit of such a broad construction as to imply any intention on President Roosevelt's part to limit the rights definitely accorded to this Government by the Treaty of 1903. In the approaching negotiations it is hoped that a solution will be found for the problems arising out of the construction, maintenance, operation, sanitation and protection of the Canal, and this Government will be glad to give attentive consideration to any proposals advanced by the Government of Panama for the attainment of these necessary objects.

With respect to your statement that the people of Panama were greatly alarmed at the occupation by the United States of the ports of Ancon and Cristobal, as they had not understood that the Canal Treaty would cause them to lose these two ports, and that the Taft Agreement was caused by this fear on the part of Panama, I desire to call your attention to the fact that the right of the United States to occupy those ports was recognized by Mr. Bunau-Varilla, Panaman Minister to Washington, in a note addressed to the Secretary of State on January 19, 1904,[20] and that this was confirmed by the Minister of Foreign Affairs of Panama. I desire also to point out to you that Ancon and Cristobal were within the Canal Zone when it was occupied by the United States and temporary government over it was assumed by Major-General George W. Davis, on behalf of the United States, on May 19, 1904, as is shown by the Conventions signed June 15, 1904,[21] temporarily delimiting Panama, Colon and the Canal Zone, by General George W. Davis, Governor of the Canal Zone, Señor Tomas Arias and Señor Valdes Lopez, Secretary of State and Attorney General of the Republic of Panama, respectively. Furthermore, I must remind you that the Boundary Convention of 1914 in its provisions relating to these ports definitely settled this question for all times. There is, therefore, no room for discussion on this point.

Referring generally to your statement that while the object of the Treaty was to give to the United States all that was necessary for the construction, maintenance, operation, sanitation and protection of the Canal, Panama maintains that jurisdiction over foreign commerce of the Canal Zone was not transferred, I may refer to the explicit provisions of Article III of the Treaty of 1903, as follows:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of the auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign

[20] *Foreign Relations*, 1904, p. 608.
[21] Malloy, *Treaties*, 1910–1923, vol. III, p. 2752.

of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The grant to the United States of all the rights, power and authority which it would possess if it were sovereign of the territory described, and to the entire exclusion of the exercise by Panama of any such sovereign authority, is conclusive upon the question you raise. The position of this Government upon this point was clearly and definitely set forth in the note of Mr. Hay to Mr. de Obaldia of October 24, 1904.[22]

As regards your statement that the Taft Agreement determines the juridical status of the Canal Zone, I beg to point out to you that, as is clearly shown in the correspondence, the Taft Agreement was a temporary arrangement to meet the situation during the time of the construction of the canal, and that Section 12 of the Executive Orders of December 3, 1904, being the first of the Executive Orders embodying the Taft Agreement, specifically states that its operation and enforcement by officials of the United States on the one hand, or a compliance with and performance of the conditions of its operation by the Republic of Panama and its officials on the other, shall not be taken as a delimitation, definition, restriction, or restrictive construction of the rights of either party under the Treaty between the United States and the Republic of Panama. By the Taft Agreement the United States voluntarily waived for the temporary period of the construction of the canal the exercise of certain of the rights which were given it by Article III of the Treaty. This was a temporary waiver, however, and Section 12 of the Executive Order, just referred to, specifically shows that it in no wise impaired the rights of the United States under the Treaty.

If Panama enjoys special privileges by this temporary arrangement over and above those reserved to her by the Treaty, as your statements clearly imply she does, it should be remembered that these concessions have now continued in force for a considerable period within which my Government has clearly had a right to terminate the Agreement. This is mentioned merely for the purpose of emphasizing the fact that in all of my Government's dealings with Panama it has not only applied the principles of equity, but has acted in a generous spirit.

With respect to your statement that no foreign merchandise of any kind or of any origin could be imported into the Canal Zone without paying to the Republic of Panama the proper customs duties, unless it was imported by the Government of the United States for the canal and its employees, I beg to direct your attention to Article

[22] *Foreign Relations*, 1904, p. 613.

XIII of the Treaty of 1903, which granted the United States the right to import at any time into the Canal Zone "free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families". This provision, which referred to importations through Panaman territory, was necessary because at that time the ports of Ancon and Cristobal had not been sufficiently developed and all importations for the Canal Zone had perforce at that time to pass through Panaman territory. With the development of the ports of Ancon and Cristobal this provision was unnecessary, as importations into the Canal Zone no longer had to pass through Panaman territory, but were landed directly in the Zone. Nevertheless, for the period of the construction of the canal, the United States waived, by the Taft Agreement, the right which it had to bring any goods which it desired into the Canal Zone and agreed to limit such importations during the life of that arrangement to those articles described in Article XIII of the Treaty of 1903. Any possible question as to Ancon and Cristobal being in the Canal Zone was, as mentioned above, definitely settled by the 1914 Treaty. Therefore, upon the abrogation of the Taft Agreement this temporary waiver of the right to import goods into the Canal Zone will be at an end, and the United States will again be in the full exercise of its rights under Article III and the other provisions of the Treaty of 1903.

Regarding your statement that by the Taft Agreement shipments of merchandise for Zone harbors were to be cleared by Consuls of Panama abroad, I beg to invite your attention to the provisions of Section 3 of the Executive Order of December 3, 1904, which provides as follows:

"All manifests and invoices and other documents in respect to vessels or cargoes cleared or consigned for or from the ports of Panama and Colon shall, as heretofore, be made by the officials of the Republic of Panama. All manifests, invoices, and other documents in respect to the vessels and cargoes cleared or consigned for or from the ports of Ancon or Cristobal shall be made by officials of the United States."

This Section of the Taft Agreement is merely declaratory of the rights of the United States under the 1903 Treaty, and the abrogation of the Taft Agreement will, therefore, bring about no change in this matter.

You are correct in your statement that the post offices of the Canal Zone are operated as domestic American post offices, but that, under the Taft Agreement, postage is paid by means of stamps of the Republic of Panama surcharged "Canal Zone", bought from the Republic of Panama at forty per cent of their face value. This was a concession made to Panama during the life of the Taft Agreement and will, of course, terminate with its abrogation.

As regards your statement that at the time when the Canal Zone was inhabited by a civilian population the natural products of the Zone which were exported from the Zone paid export duty to the Republic of Panama, I beg to state that the Canal authorities have always cooperated with Panama regarding the export of, and the collection of export taxes on, products which have their origin and growth in the Republic of Panama and are exported through Canal ports. The Canal authorities, however, I am informed, have never recognized the right of Panama to impose export taxes or any other taxes on the natural products of the soil of the Canal Zone, nor has collection of any such taxes ever been permitted or payment required at the time of exportation. It is, of course, not impossible that some exporters voluntarily paid export taxes on bananas or other products of the soil of the Canal Zone when exported with similar products grown in the Republic of Panama, although such taxes were not required by the Canal authorities nor was the right of Panama to collect such taxes recognized by them. As a matter of fact, I am informed that there is no record in the Canal Zone administration of any correspondence between the Canal and the Panaman Government in which the latter has claimed the right to impose such taxes on the products of the soil of the Canal Zone. Article III of the Treaty of 1903 is most explicit on this matter and does not leave any grounds for discussion on this point. Also, as supporting the position of the United States in this matter, I would call your attention to laws Nos. 65 and 88, enacted by the Panaman Assembly on June 6, and July 5, 1904, respectively, and to two rulings of the Supreme Court of Panama in the case of *J. N. Gris* vs. *The New Panama Canal Company* and the case of *Carlos Carbone* vs. *Juan Escoval*, rendered on January 20, 1905, and January 25, 1905, respectively.

Articles 1 and 2 of the law No. 65, of June 6, provide as follows:

"Article 1. The executive power is authorized to abate, in a convenient manner, those duties which, if still levied in accordance with the existing laws, will be prejudicial to commerce and to the people, because said laws are very different from those which the Government of the United States will establish in the Canal Zone.

"Article 2. The executive power is likewise authorized to celebrate with the Government of the United States a convention relative to the duties which will be levied in the Canal Zone and in the cities

of Panama and Colon, in order that they may be identical in one and the other places. The convention will remain in force until such time as, being submitted to the National Assembly, that body should disapprove it."

Article 23 of Law 88 of July 5, is in the following terms:

"Article 23. The executive is authorized to reduce the slaughter-house duty on cattle killed in the districts of Panama, Colon, and Bocas del Toro, when the fiscal system to be introduced in *the Zone ceded to the United States*, in his opinion, requires it."

The Supreme Court in its decision in the case of *J. N. Gris* vs. *The New Panama Canal Company* makes the following statements:

"Therefore, if in conformity with this provision, the Republic of Panama agreed to grant to the United States, within the Zone described in Article II and within the limits of all auxiliary lands and waters mentioned, all the rights, power and authority that it, while sovereign thereover, had; and if, moreover, the Republic of Panama agreed that the United States should possess and exercise, to the entire exclusion of the Republic, those rights, powers and authority, that is to say, the rights, power and authority that a sovereign alone can have, it seems clear that the United States has the right to administer justice in the Canal Zone absolutely regardless of the Republic of Panama in so doing. If the provisions made in Article III should fail to be sufficient, though this be not the case, to establish the right of the Government of the United States to organize the Judiciary of the Canal Zone to the exclusion of the Republic of Panama, the text of Article 16 of said contract will dispel all doubt with respect thereto. Said Article is as follows: 'The two governments shall make adequate provisions by future agreement for the pursuit, capture, imprisonment, detention and delivery within the said Zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said Zone and for the pursuit, capture, imprisonment, detention and delivery without said Zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.' This provision simply provides that the two governments make an agreement of extradition, limiting the same in so far as the United States is concerned with respect to the Canal Zone and auxiliary lands, which agreement would have no end or meaning if the authorities of Panama should exercise jurisdiction in said zone and auxiliary lands.

"Moreover, in spite of the facts given above, that is to say, that rights of the United States to organize, to the exclusion of the Republic of Panama, the Judiciary of the Canal Zone and auxiliary lands mentioned in Section II; it is true that neither the contract of November 18, 1903, the provisions of which have given rise to the appeal under consideration, nor the Colombian laws now in force in Panama, nor the decrees issued by the Junta de Gobierno also in force, nor the laws promulgated by the National Assembly, confer upon the Judiciary of the Republic the right to decide which of

the cases that were triable before them prior to the American Government taking possession of the Canal Zone, it has ceased to have jurisdiction over, nor to say which of such cases should be transferred to the authorities of the Zone for trial; and, as on the other hand, Article 159 of Law 58 of last year, prohibits 'officers of the Judiciary to exercise rights which have not been expressly and clearly conferred upon them by the Constitution and the Laws' the Court declines to consider the sentence appealed, which it does in the administration of justice and in the name of the Republic and under authority of the Law."

Again the Supreme Court in rendering the decision in the case of *Carlos Carbone* vs. *Juan Escoval* made these statements:

"The Judge considers that he has no jurisdiction in the aforesaid case as it involves a parcel of land situated in the Canal Zone, which, by virtue of the Treaty of November 18, 1903, the Government of the United States came in possession of; though the Attorney General of the Nation holds that in spite of the provisions of said Treaty the Republic maintains its right of eminent domain in said Zone, and that therefore the Judges of Panama have not lost their jurisdiction in cases triable by them prior to the American Government coming in possession of the Canal Zone, though such cases may cover real-estate situated therein."

In view of the Treaty provisions before referred to, the provisions of Article 3 of the Panaman Constitution, the laws passed by the Panaman Assembly, the decisions rendered by the Supreme Court of Panama, and certain acts of the executive branch of the Republic of Panama in the matter, the question of the exercise of jurisdiction by the Panaman Government over the Canal Zone, as stated in Mr. Hay's note of October 24, 1904, to Mr. Obaldia, can no longer be considered as open to discussion between the two Governments.

Regarding your further statement that for the Republic of Panama the Taft Agreement constitutes a legalization of the occupation by the United States of Ancon and Cristobal, as those ports were not ceded by Panama under the Canal Treaty, I can only repeat what I have said above concerning these ports having been recognized by Señor Bunau-Varilla in his note of January 19, 1904, as being within the Canal Zone. Nevertheless, should any question on this point still have subsisted after the sending of that note, it would appear to have been definitely and forever settled by the Treaty of September 2, 1914.

Regarding your observations concerning the activities of the Canal commissaries, I beg to call your attention to Article XIII of the Treaty which permits the United States to import free of duty through Panaman territory into the Canal Zone all provisions, medicines, clothing, supplies and other things necessary and convenient

for the officers, employees, workmen and laborers in the service and employ of the United States and for their families, and to the provisions of Section 1 of the Executive Order of December 3, 1904, by which the United States, while temporarily waiving its right under the Treaty to bring into the Canal Zone directly any goods which it might desire, nevertheless, maintained the right to import for its employees, workmen and laborers and their families the supplies mentioned above. If this has perhaps prevented certain merchants of Panama from making profits which they would otherwise have made it is, nevertheless, fully in accordance with the treaty rights of the United States, and it is, therefore, not subject to discussion. You mention the question of luxuries. I may say that there is nothing either in the Treaty or in the Taft Agreement to prohibit the importation of articles that may be called articles of luxury, or to restrict the United States in the importation of whatever supplies and other things necessary and convenient for its officers, employees and laborers.

You make the allegation that smuggling of articles bought from the commissaries into the Republic of Panama has been practiced upon a large scale, and you charge that this has been done with the knowledge and connivance of the American authorities, and you state that they refuse to apply the remedies suggested by the Panaman authorities to do away with this practice. I am constrained to express to you my surprise that you should make a statement alleging the connivance of the American authorities in such practices without adducing any supporting evidence and I am the more surprised because, as I am informed, Panaman officials have been large introducers of commissary articles into the Republic of Panama. The Canal Government has always permitted Panaman officials to buy from the commissaries when this privilege has been requested by the President of Panama. This is not a matter that can be controlled by the Zone officials, but is one which the Panaman Government must deal with itself.

It is, of course, difficult to prevent absolutely the smuggling of goods purchased in the commissaries into the Republic of Panama, but the Canal authorities have always been willing to cooperate in any reasonable manner with the Panaman authorities and have gone so far as to permit the presence in the commissaries of Panaman inspectors to enable them to prevent this traffic.

You allege that the interests of Panaman landlords have been damaged by the construction of houses in the Canal Zone which you state have been rented not only to employees of the Canal and to its laborers but also to the general public. My information indicates that this statement is entirely erroneous. It appears that sometime

ago many Canal employees lived in the cities of Panama and Colon because there were not sufficient houses for them in the Zone, and the Panaman landlords profited accordingly. In recent months, however, the operating personnel of the Zone has been greatly diminished so that while there was formerly a large waiting list for houses at both terminals of the Canal Zone there are now vacant houses at both ends of the Canal. As these houses gradually became vacant it was but natural that Canal employees living outside of the Zone should move to the quarters properly provided by the Canal authorities for its officers, employees and laborers in the Canal Zone. However, I am advised that no houses in the Canal Zone have ever been rented to any one not an official, employee or laborer in the service of the United States. I will point out, however, that when the Taft Agreement is abrogated the only obstacle to so renting houses in the Canal Zone will be removed.

You complain of the deplorable condition of the hotel business in the Republic of Panama on account of the Washington and Tivoli Hotels which have prevented private capital from successfully engaging in that business in view of the competition afforded by those hotels. Those hotels were built because private enterprise did not provide suitable accommodations. I am informed that the Hotel Washington, as a matter of fact, was built by verbal order of President Taft when on a visit to Colon because he considered it disgraceful that no better accommodations were available. It was only after private capital had failed to take advantage of the opportunity that the hotels in question were built.

As regards your complaint that the large laundry establishments in the Canal Zone have rendered the laundry business in Panama a precarious financial venture, I would call your attention to the fact that the Canal authorities now maintain one laundry only, namely, the one at Ancon, which is surely not an excessive provision in view of the numerous employees whom it serves. I am informed that the privately operated Colon steam laundry does nearly all of the business afforded by the ships using the Canal, in addition to caring for the needs of a large part of the Canal employees living at that end of the Canal. The success of this privately operated laundry would appear to refute your complaint on this score.

You complain that the business of supplying provisions and stores to vessels crossing the Canal has fallen exclusively into the hands of the Canal authorities, and this you describe as a flagrant violation of the Taft Agreement which, you state, permits the United States to supply ships only with coal and oil for fuel. In answer, I may direct attention to Article XIII of the Treaty of 1903, to which the Taft Agreement refers, which allows the importation without any

restriction of all materials, supplies and other articles necessary and convenient for the operation of the Canal. Ships cannot go through the Canal without proper supplies. They are absolutely necessary. The local merchants will not, I am told, supply the needs of the ships using the Canal, as there are a great many supplies on which there is small profit and there is a possibility of considerable loss through spoiling, et cetera. There are, however, a number of local merchants who handle such business as they care to handle, and when a local merchant gets the contract for furnishing supplies to a ship he frequently purchases a considerable portion (that portion on which he cannot make what he considers an adequate profit if he handles it himself) from the commissaries. If the commissaries did not permit their stocks to be available for ships there would be many articles that ships would not be able to purchase from the local merchants. The Canal officials, I am informed, do not solicit business from ships passing through, but they always keep necessary supplies for the convenience of any ship whose officers or agents wish to purchase them.

As a matter of fact, the local merchants enjoy extraordinary privileges in this business, as they are permitted to use without charge the Railway Company's docks for delivering goods in competition with the Railway Company itself. I understand also that the business done with ships by these local merchants is much larger as compared with the Canal's similar business than would be understood from your statement.

You complain of the action of the Canal authorities in providing cinema theaters and other kinds of amusements for its employees to the detriment of persons conducting similar enterprises in the cities of Panama and Colon. The provision of these amusements was made for two reasons, first, to bring them nearer to the residences of the Canal employees, and, second, to offer their families places of recreation free from some of the conditions existing in Panama and Colon.

As regards your further statement that the Railway Company is operated as a private undertaking when engaged in certain activities, but insists that it is the Government of the United States when it comes to paying taxes, I would remind you that the Railway Company is exempted from paying taxes to Panama by virtue of Article VIII of the Treaty of 1903, by which the United States was granted all rights which Panama acquired in the Panama Railway Company as the result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama, and by virtue of the provisions of Article X of the Treaty of 1903, which stipulates that "the Republic of Panama

agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works" employed in the service of the Canal. Under its concession the Railway Company paid the Republic of Colombia $250,000 per year in lieu of taxes, and after the 1903 Treaty went into effect these payments were, in accordance with Article VIII of the Treaty, made to the United States Treasury until an Act of Congress (H. R. 25552, approved June 25, 1910) relieved the Railway from so doing. This point is admitted by you later on in your note when you state that the $250,000 paid annually by the United States to Panama is "a compensation for the concession by the Republic of Panama of its rights to collect that amount from the Railway Company and other rights which it had on the same concern under the contract entered into with that company and the Colombian Government, whose place was taken by the Panaman Government when secession was achieved." You go on to say that the Company, under the contract, paid that annuity to the Government and if there had been no Canal Treaty either Colombia or Panama would have continued to collect it. This would appear conclusively to dispose of your contention on this point.

The other enumerated activities of the Railway Company of which you complain are carried on by the Railway Company as being necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families.

With regard to your statement that although the Taft Agreement does not constitute all that could be desired for Panama it does recognize to a certain point fiscal jurisdiction of Panama over the Canal Zone preventing it from being open to the commerce of the world, and to your further assertion on the part of Panama of a right derived from the Canal Treaty, confirmed by the Taft Agreement, of jurisdiction over the foreign trade of the Canal Zone, I would again point out that Article XIII of the Treaty allowed the United States to import into the Canal Zone through Panaman territory, free of all Panaman imposts, taxes, or other charges, all machinery, material, tools, supplies, et cetera, necessary for the construction, maintenance, operation, sanitation and protection of the Canal. By Section 1 of the Taft Agreement the United States stipulated that it would not import any goods into the Canal Zone at Ancon or Cristobal, except those mentioned in Article XIII of the Treaty. So long as the Taft Agreement remains in effect, the right of the United States to import directly into the Canal Zone at Ancon and Cristobal all such goods as it may desire, regardless of any restriction, is temporarily in abeyance. The Taft Agreement,

however, was clearly understood to be for the construction period of the Canal and that being accomplished it may be abrogated and the United States may then exercise the right of unrestricted importation and other rights which it enjoys under the Treaty of 1903.

You reiterate that the Zone has not been sold, transferred or alienated by the Republic of Panama to the United States in full ownership. For a reply I beg again to refer you to Article III of the 1903 Treaty. You state that the annual payment of two hundred and fifty thousand dollars was not stipulated as a fee for the use of the Zone, and that it constitutes merely a compensation for the concession by the Republic of Panama of its right to collect that amount from the Railway Company and other rights which it had over this concern under the contract entered into with that Company and the Colombian Government. Article XIV of the Treaty stipulates that as the price or compensation for the rights, powers and privileges granted in that Convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars in gold coin of the United States on the exchange of the ratification of that Convention and also an annual payment during the life of that Convention of two hundred and fifty thousand dollars in like gold coin, beginning nine years after the date aforesaid. The right to collect taxes from the Railway Company and all other rights over that Company are certainly part of the rights, powers and privileges granted under the 1903 Convention, but they are only a part and a very small part of the rights, powers and privileges for which the initial payment of ten million dollars was made and for which the annual payments of two hundred and fifty thousand dollars were and are being paid.

You mention the following questions which your Government desires you to settle by means of a Protocol or in some other manner:

1. Concession of more land for the work of the Canal.
2. Necessity of determining the extent of land needed for the Canal.
3. Concession of land for fortifications.
4. Method of appraising the land condemned for the Canal.
5. Legal status of the Railway Company, concerning
   a. Land in the City of Colon.
   b. Water and sewer tax on the land of the Railway Company.
   c. Payment of general tax by the Company.
   d. Differences in rates to the detriment of the commerce of Panama.
6. Commissaries, with special reference to
   a. Introduction of luxury articles.
   b. Smuggling.
   c. Sales to vessels that cross the Canal.

7. Facilities for maritime transportation.
8. Foreign companies established in the Canal Zone.
9. The question of manifest fees.
10. Cemetery for the City of Colon.
11. Renting houses in the Canal to private persons.
12. The establishment of storage warehouses in the Isthmus.
13. The concession of facilities to the merchants of Colon and Panama in supplying the stores and other material to ships that cross the Canal.
14. The establishment of Panaman customs stations in the terminal ports of the Canal for the clearing and examination of merchandise, baggage and passengers for the cities of Colon and Panama.
15. The regulation and effectiveness of the passport formalities in cases of persons going to the territory of the Republic through the ports of the Canal Zone.
16. The operation of the Volstead law in the Canal Zone so as not to hamper the free traffic through the Zone and Canal ports between Panama and foreign countries.
17. The control of wireless communications within the territory of the Republic.
18. The proper delimitation of the functions exercised by the health service in the cities of Panama and Colon in order to avert conflicts between them and the public officials in Panama.
19. The settlement of the difficulties pending with regard to the collection of the tax through which payments should be made for the water pipes and sewers laid in the cities of Panama and Colon for the account of the Republic.
20. The question of land communication between Panama and Colon and the remainder of the Republic.

I shall discuss seriatim these various questions, some of which were brought forward by you on a previous occasion:[28]

1. Under the heading of the concession of more land for the work of the Canal you state that the Canal Zone authorities maintain that they can occupy any territory of the Republic and place it under the jurisdiction of the United States without any more formality than a notice to the Panaman Government that they have taken that area for the construction, maintenance, operation, sanitation or protection of the Canal, and you refer to land taken in Las Minas Bay as an example. I must point out that by Article II of the Treaty of 1903, the Republic of Panama granted to the United States the Canal Zone, and, furthermore, granted "in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient

[28] For items 1 to 10, see the Panaman note of Apr. 2, 1921, *Foreign Relations*, 1922, vol. II, p. 751.

for the construction, maintenance, operation, sanitation and protection of the said enterprise." There can, therefore, be no question as to the right of the United States to take such lands for the above purposes as may be necessary and convenient for the purposes described. However, the Canal authorities have signified their readiness to comply with any reasonable requests of the Panaman Government with regard to the formality of occupying such areas. On March 7, 1921, the Executive Secretary of The Panama Canal requested suggestions from the Government of Panama with respect to the *modus operandi* to be observed in such cases. No reply has as yet been received to that letter. If no satisfactory arrangement has as yet been arrived at, the fault cannot be attributed to the American authorities.

2. Under the heading of the necessity of determining what land is needed for the Canal you list seven different pieces of land outside of the Canal Zone which have been taken by the Zone authorities, and you state that the Canal work having been completed and the land sought for that purpose having been delivered, the concession of such land is now terminated and complied with in fact, and that no further land should be taken, as it places upon all lands and properties of the Republic the burden of sudden condemnation without previous indemnity, and you add that the latent threat of condemnation checks and paralyzes the development of industry and agriculture.

Of the seven tracts of land listed by you only the first two were required for the construction of the Canal, the others being required for its protection and of the latter the proposed acquisition of one has been abandoned. This Government would not decline to discuss with the Panaman Government, at the time of the negotiation of a new agreement after the abrogation of the Taft Agreement, the question of what additional land will in all probability be necessary and convenient for the construction, operation, maintenance and sanitation of the Canal. Such discussion, of course, could only relate to what will in all probability be necessary and convenient for those purposes and would not in any way affect the treaty rights of the United States. As regards the protection of the Canal, however, no such assurance can be given. It is obviously impossible to know what the developments in modern warfare may be within the next generation even, and it is, consequently, impossible to know what additional land may be needed to meet the changed conditions as regards the protection of the Canal.

3. Under the title "land grants for fortifications" you state that the Treaty does not authorize the taking of land by the United States for such purposes and you announce the readiness of the Panaman

Government to conclude a special convention relative to granting such land as may be needed for that purpose in return for equitable compensation, and you inquire whether Article XXV of the Treaty does not perhaps cover this point.

In reply, I must call your attention to Article II of the 1903 Treaty which clearly gives the United States the right to take land for the building of fortifications. It specifically states that "the Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water" and "any other lands and waters outside of the zone above described which may be necessary and convenient for the . . . protection of said Canal." Article XXV of the Treaty mentioned by you covers naval and coaling stations on the Pacific coast and on the western Caribbean coast of the Republic, the land for which would be sold or leased to the United States "for the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality." This is intended to aid in carrying out the intent of the other engagements of the Treaty but not in any sense to restrict them.

4. "Condemnation of land for the Panama Canal." Under this heading you maintain that in the case of further acquisition of land for the Canal compensation should not be made at the value in 1903, but that the 1903 value should be taken as a basis or starting point for the appraisement and not as the value itself. Article VI of the Treaty is clear and specific on this point, as already stated above. Should Panama desire to negotiate for a change in this stipulation of the Treaty the United States Government would give careful consideration to any proposals it may care to make.

5. You classify the difficulties arising with the Panama Railway Company under four heads:

a. Regarding lands in the city of Colon you state that the Panama Railway Company has, under a judgment of the Supreme Court of Colombia, only a usufructuary right for a short term of years to these lands, and that they were to have been returned to Panama as soon as the Canal Treaty was approved, and you base this contention on Article VIII of the Canal Treaty.

Article VIII of the Treaty specifies that public lands situated outside of the Canal Zone at that time included in the concession of the Railroad and not required in the construction or operation of the Canal were to revert to the Republic of Panama "except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof." This provision of the Treaty, you will note, specifically exempts all the lands to which you refer from the provision of Article VIII, requiring the

return to Panama of lands outside of the Canal Zone not needed for the construction or maintenance of the Canal. Furthermore, a judgment rendered by the Supreme Court of Colombia on March 12, 1891, recognized the right of the Railroad Company in the whole of Manzanillo Island (with the exception of four hectares which now belong to the Republic of Panama), and this land was held to be an absolute property right (not a usufructuary right) for ninety-nine years from 1867. Any reversionary right in that property after 1966, to which the Republic of Panama might have otherwise been entitled, was surrendered by her to the United States under Articles VIII and XXII of the Treaty of 1903.

You further state that the Republic of Panama has been unable to obtain from the Railway Company payment to the Republic of Panama of the taxes which are levied in your country on city lots. I must refer you to Article X of the Treaty of 1903, which stipulates that "the Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon." Under its concession the Railroad Company paid the Republic of Colombia $250,000 per year in lieu of taxes, and after the 1903 Treaty went into effect these payments were, in accordance with Article VIII of the Treaty, made to the United States Treasury until an Act of Congress (H.R. 25552, approved June 25, 1910), already mentioned, relieved the Railroad from so doing, and, as already stated, your own statement effectually disposes of this contention.

b. Under the head of water rates with regard to the Railroad lots you state that the cost of the work done by the United States in installing the water works, paving and sewerage has been greatly augmented by the building of streets, sewers, and aqueducts in a large part of the city of Colon which the Railroad Company claims to own, and that these were charged to the Republic of Panama and increased the cost of those public services to the injury of the Republic and for the exclusive benefit of the Railway Company, which is collecting large amounts for rent of lots in Colon. Article VII of the Treaty authorizes the United States to collect water and sewer rates in payment of interest and amortization of the principal cost of sanitation in the cities of Panama and Colon. After the amortization of these debts these works will revert to those

cities. The streets and sidewalks are a sanitary necessity and those improvements which were actually necessary in carrying out the sanitary measures in the cities of Panama and Colon have been charged to the Panaman Government. I am advised that all other improvements in Colon, including many of the street and alley pavements and sidewalks, were paid for by the Railway Company and the Panama Canal and were in no wise charged to Panama. All of these works have been dedicated to the use of the public, and the fact that they have enhanced the value of privately owned property does not appear to be an argument against the fairness of the dealing of the United States with the Republic of Panama, in accordance with Article VII of the Treaty.

c. Under the caption "duties and taxes" you state that Article XVIII of the contract entered into in 1867 by the Railway Company and the Republic of Colombia, exempts the Company from the payment of duties and taxes on its property of every nature whatsoever belonging to it and needed for the service of the Railroad and its dependencies, and that, therefore, the Railway Company is bound to pay taxes and duties on any other pursuits or property not connected with the Company's service as a common carrier, as, for instance, rented lots, stables, city express, et cetera.

As already stated above, the Railway Company paid the Republic of Colombia $250,000 a year in lieu of taxes and under Article VIII of the Treaty there was granted to the United States all rights which Panama acquired in the Panama Railway Company as the result of the transfer of sovereignty over the Isthmus of Panama from the Republic of Colombia to the Republic of Panama. The United States subsequently acquired, by purchase, the rights which the Panama Railroad held under its charter from the State of New York. If the Railway Company has to pay any taxes they would be paid to the United States Government and not to Panama.

d. "Differences in rates to the detriment of the commerce of Panama." You state that one of the reasons why the Canal commissaries can sell goods cheaper than the trades people of Panama is the fact that they receive the lowest possible rates on all goods transported by the Railway Company, and you ask that similar rates be given to Panaman tradesmen.

The commissaries bring in large shipments and normally ship in car load lots. I am informed that the Railway Company will give similar rates to any Panaman merchant who brings in merchandise in large enough quantities, but it is obviously impossible for the Railroad to give the same rate for one or two crates that can be given for full car load lots. This is a practice of railroads the

world over, based on economic necessities, and I therefore fail to see that Panaman merchants have any cause of complaint.

6. Commissaries:

a. Introduction of de luxe articles. Under this heading you state that luxury articles, especially tobacco, are imported and sold by the commissaries contrary to the provisions of Article XIII of the Canal Treaty, which confines imports to those articles which are necessary and convenient for the employees of the Canal and of the United States. Reference has already been made to this matter, and, as stated, Article XIII of the Treaty granted to the United States free entry through Panaman territory of all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. By Section 1 of the Taft Agreement it was provided that while that arrangement continued there should be no importation at Ancon and Cristobal of any goods other than those described in Article XIII of the Treaty. Nor is there any restriction as to the importation of whatever supplies are necessary and convenient for its officers and employees. The views of the Canal authorities on this matter have been fully communicated to the Panaman Government in Governor Harding's letter of March 27, 1917, to the Panaman Minister of Foreign Affairs and in the Executive Secretary's letter of May 11, 1917, to the same official.[24] Any possible divergence of opinion on this matter will, of course, be removed by the abrogation of the Taft Agreement by which the United States will again come into the full enjoyment of its treaty right to import directly into the Canal Zone whatsoever it may desire.

b. Smuggling. You allege that sales for cash to employees of the Canal and the Railroad of coupons with which to make purchases in the commissaries has enabled them to make unlimited purchases to amounts much greater than their salaries, and that the goods so purchased are smuggled into Panama and sold surreptitiously without paying duty, and you suggest that these coupons be sold to the employees by deduction from their salaries only so that each one would be limited to the purchase of only those goods needed by him. You state that tobacco is smuggled into Panama to such an extent that its regular importation has decreased to an amazing degree, and you charge that American soldiers are the worst offenders.

I understand that the restriction of the sale of commissary coupons for cash has been put in force by the Canal so far as its silver roll employees are concerned, with the exception of certain classes of laborers, such as dock men, who are irregularly employed and are

[24] Neither printed.

paid on a weekly basis. It has not been found practicable to deny the latter the privilege of purchasing a limited number of such coupon books for cash. I am advised, however, that these employees purchase books with an authorization card, and that the system does not enable them to purchase without restriction, as you allege. Employees on the gold roll are permitted to purchase coupon books for cash, but I am told it is not believed that there is any abuse of this privilege as they all know that proper disciplinary action would be taken should they be found to be engaged in smuggling, and in any case purchasers of coupon books have to sign the stub therefor so that their coupons can be checked up and it can easily be ascertained if any one is buying in excessively large quantities.

When the allegation was made in Panama that soldiers were smuggling tobacco into the Republic the military authorities issued orders prohibiting this practice and prescribed severe disciplinary measures for anyone found engaged therein, and a further order restricted single purchases of tobacco by soldiers to fifty cents.

As stated above, it is, of course, most difficult to prevent absolutely the smuggling of goods purchased in the commissaries into the Republic of Panama, but I am assured that the Canal authorities have always been willing to cooperate in any reasonable manner with the Panaman authorities and to this end they have been permitted the presence of Panaman inspectors in the commissaries to enable them to prevent this traffic. I have already mentioned the introduction into Panaman territory of commissary goods by Panaman officials, a practice which can be controlled only by the Panaman Government itself, and it is unnecessary again to discuss this matter.

With reference to your statement that the commissaries yearly import more merchandise for a population of 25,000 than the Republic of Panama for a population of 450,000 and that the imports of the commissaries have been increasing year by year although the population of the Zone has been decreasing since the work on the Canal has been completed, I may quote the following figures of total sales by commissaries in the Zone for the fiscal years from 1918 to 1922, inclusive:

1918	$10,239,706.37
1919	11,237,646.33
1920	12,407,421.06
1921	11,112,334.29
1922	6,966,376.63

The peak of the Canal labor force, at least since 1914, was, I understand, during the calendar year 1920, and partly in each of the two fiscal years 1920 and 1921, due principally to army post construction.

Aside from the fact that the average standard of living in the Canal Zone is very much higher than that in Panama, I would mention that all imports made by the commissaries are not sold to Canal and railroad employees. The records show that of the total sales from May 1, 1920 to April 30, 1921, fifty-five per cent was to employees, thirty-seven per cent was on account of Government operations including the Army and Navy, and eight per cent consisted of sales to commercial vessels.

c. Sales to vessels crossing the Canal. This question has been fully discussed above, and I will not here repeat what has already been said with respect to the right to make such sales.

7. Facilities for maritime transportation. You complain that ships with cargoes from South Pacific ports for Panama do not discharge their cargoes at Balboa, but carry them on to Cristobal from where they have to be returned to Panama by rail, thus making the freight rate on merchandise from South Pacific ports to Panama higher than to Colon. You allege that the reason for this is a deficiency of facilities at Balboa for discharging such cargoes, and you state that the United States Government should offer facilities to the steamship companies for loading and landing merchandise there.

In reply, I beg to inform you that complete facilities have existed at Balboa since 1914, for the handling of all cargoes that ships may wish to discharge there. If ships do not discharge at Balboa it is because they do not wish to do so, and this, probably, for the reason that they do not care to incur the expense incident to picking up or discharging small amounts of cargo at Balboa for the city of Panama, when they are picking up or discharging large cargoes at Cristobal. It apparently does not pay them to load or unload unless they have large cargoes, and there is generally very little cargo for Panama City as the bulk of the trade for the Isthmus is handled at Colon, that being the port for transshipment cargo which forms the great mass of cargo landed. The Canal authorities are not in a position to force steamships to discharge cargo at Balboa against their will and this, I understand, has been explained to your Government by the Canal authorities both orally and in writing.

8. Foreign companies established in the Canal Zone. You state that the Canal authorities have granted permission to various companies established in the city of Panama to move into the Canal Zone and have granted them and their employees the privilege of the commissaries as though they were employees of the American Government. You allege that these companies have imported building material into the Zone, or have purchased it from the Canal without paying duties, and that these acts are contrary to the stipulations of

Article XIII of the Canal Treaty and of the Taft Agreement. You assume that other concerns established in Panaman cities will try to secure the same benefits for themselves and that the matter will have a very serious aspect with respect to the revenues and commerce of the Republic.

In reply, I beg to advise you that my information is that no foreign companies have been permitted to establish themselves in the Zone except a few whose interests and operations are so closely allied to the operation of the Canal that they are in reality Canal auxiliaries. The Canal's policy in this connection was stated to your Government by Governor Harding as follows:

"Wherever the relations between an individual or company and the Canal or Railroad are such as to warrant the former being given permission to erect a building or maintain an office in the Canal Zone (as in the case of steamship companies, the Cable Company, etc.), there is a sufficient community of interest to warrant the Canal or Railroad doing construction and repair work for such individual or company; though it is to be noted that such work is not solicited by the Canal or Railroad, but is done only upon the request of the individual or company concerned. Instances of such work are the construction in the Canal Zone of a cottage for the West India Oil Company, of ten cottages for the Central and South American Cable Company, and an office building and *bodega* for the last mentioned company. In short, this and similar work is considered to be analogous to the doing of work on steamships, the furnishing of supplies to shipping interests, etc."

Among those who have been permitted to establish in the Zone are the Cable Company, the West India Oil Company, and one or two similar concerns. A recent case is that of the West India Oil Company which is building a gasoline tank in the Zone on account of its access to tank steamers. All gasoline sold in the Republic of Panama will, of course, pay duty when it leaves the Zone, and as a considerable portion of the gasoline to be contained therein will be sold in Panama the Canal authorities, I am informed, denied the Company free entry for the steel to construct this tank. The West India Oil Company and other companies have constructed other tanks purely for oil to be used in the Canal Zone in connection with the work thereof, or for sale to steamers transiting the Canal, and they have been allowed free entry of the construction material, as these were matters concerning only the administration of the Canal Zone. From this you will see that the actions of the Zone authorities have always been scrupulously considerate. This Government must, however, in this, as in other matters, reserve its full rights under the Treaty of 1903. Any question regarding such matters will, of course, be removed upon the abrogation of the Taft Agreement.

9. Manifest dues. You state that for some time past manifest dues on merchandise intended for the Republic of Panama coming from abroad have been collected by Consuls of the United States, and that this practice is contrary to the spirit and intent of the Taft Agreement and should be stopped. In reply, I beg to inform you that there is doubtless some misunderstanding on this point as the certification of manifests of cargo destined either for the Canal Zone or the Republic of Panama by American Consuls is not required. American Consuls collect consular fees only when they act for the Republic of Panama, and if the Panaman Government can show that manifest fees have been collected by American Consuls this Government will be glad to receive the information in order to take such action as may be necessary.

For your information in this connection I beg to quote the pertinent part of the latest instructions to American consular officers on this subject, dated July 13, 1917:

". . . the Department is informed that the Government of Panama has effected a change in the collection of consular fees whereby all fees arising from the certification of invoices, manifests and other documents relating to shipping shall be paid hereafter at the port of destination instead of at the port whence the merchandise may be shipped. Drafts for the share of such receipts accruing to the American consular officers will hereafter, it is understood, be mailed to the Consul. It is understood furthermore that no change is contemplated with respect to those fees arising from the performance of notarial acts, such as the authentication of signatures and similar services. . . ."

10. Cemetery for the city of Colon. You state that Colon is in a peculiar situation in having no site of its own for the burial of its dead, and that the only available cemetery is in the Canal Zone where a heavy rate is charged for the privilege of burial. You ask that the present cemetery in the Zone be turned over to the Colon municipal authorities so that they may administer it and use it freely without rates of any kind, or else that land be assigned and delivered to the city for the construction of a new cemetery. While it is true that the city of Colon has no cemetery of its own and uses the Mount Hope cemetery in the Zone, I would point out to you that no restrictions are placed on the interment of Panamans therein, and that the commercial rate of $25.00 for permanent burial does not appear to be heavy, and is, as a matter of fact, I believe, less than one-half the rate charged for permanent burial in the Panaman cemetery at Panama. In the case of pauper burials a charge of $10.00 for a permanent grave is made against the municipality of Colon, or the latter can have the body cremated for its account for $6.00, and temporary burial can be had for a period of two months

for $2.50. These rates certainly do not appear to be excessive, and I understand that the cemetery has been used satisfactorily by Colon since 1850.

11. The renting of houses in the Canal Zone to private persons. This charge is unfounded and has been fully explained previously in this note.

12. The establishment of storage warehouses on the Isthmus. It is regretted that you do not give any details with regard to this matter. There are at the present time no storage warehouses in the Canal Zone excepting warehouses for Canal stores which are available for sale to employees and to ships transiting the Canal. My Government must, however, insist, in the interest not only of its own commerce, but of that of the entire world, in which both it and the Government of Panama are vitally interested, upon the right granted by your Government in the Treaty of 1903, that goods which pass through the Canal, either in a single ship or by transshipment at a Canal Zone port, shall pass without duty or tax of any kind excepting the commercial taxes of handling and storage.

13. The concession of facilities to the merchants of Colon and Panama in supplying stores and other material to ships that cross the Canal. This would appear to be a repetition of point 6–c, mentioned above, and has been fully treated in the earlier part of this communication. I would again point out, however, that the local merchants now enjoy privileges in this business which are far in excess of those enjoyed by similar merchants in any other port of the world, as they use the Railway Company's docks without charge for delivering their goods in competition with the Railway Company itself.

14. The establishment of Panaman customs stations in the terminal ports of the Canal for the clearing and examination of merchandise, baggage and passengers for the cities of Colon and Panama. It appears that imports destined for the Republic of Panama are transferred to warehouses in Colon or Panama City, where they are inspected by the customs officials of Panama. In certain cases of perishable goods, which it is desired to send to their destination without delay, it appears that the inspection is made on the Railway Company's piers on Canal Zone territory by Panaman inspectors, and that these inspectors have been permitted free access to those docks in the Canal Zone to make such inspections. They, of course, have nothing to do with the shipments that come into the Zone itself for use therein.

15. The regulation and effectiveness of the passport formalities in cases of persons going to the territory of the Republic through the ports of the Canal Zone. You do not specify any difficulties that

have arisen in this matter, but this Government will not fail to consider any suggestions made by the Panaman Government at the time of the negotiation of the proposed treaty.

16. With regard to the operation of the Volstead law in the Canal Zone you do not state how it hampers freedom of trade through that Zone and Canal ports, and I would call your attention to the provisions of Section 20, Title III, of that Act providing that "this section (prohibiting the introduction, manufacture, sale, etc., of intoxicating liquors in the Canal Zone) shall not apply to liquor in transit through the Panama Canal or on the Panama Railroad." It has not been brought to my attention that this law or any interpretation thereof has as yet operated to the detriment of Panaman commerce.

17. The control of wireless communications within the territory of the Republic. This matter was fully discussed in my note of January 11, 1923,[25] by which I informed you that the United States Government, while insisting upon its rights under the 1903 Treaty and the maintenance of the decree (No. 130) of August 29, 1914, is ready to discuss with the Government of Panama the practicable measures which might be taken to adapt the regulations laid down for the control of wireless communication in Panama to the new conditions which have arisen as a consequence of the developments in the science of wireless communication.

18. The proper delimitation of the functions exercised by the health service in the cities of Panama and Colon in order to avert conflicts between them and the Panaman officials. You do not state specifically what the conflicts are which it is intended to avert, and it is not quite clear to what you refer. However, it may be said in general that the proper operation and maintenance of the Canal requires the United States to exercise as complete sanitary control as possible over the Canal and the ports and other necessary places in Panama, and the right of the United States to do so is based on Article VII and other provisions of the 1903 Treaty. In this connection you are referred to Señor Bunau-Varilla's letter to the Secretary of State, dated January 19, 1904.

19. The settlement of the difficulties pending with regard to the collection of the contribution by which are paid the costs of the water mains and sewers laid in the cities of Panama and Colon for the account of the Republic. I am advised that the payment of these charges was made by your Government on May 19th last, thus disposing of this question.

20. The question of land communication between the cities of Panama and Colon and the remainder of the Republic. You do not go into detail on this matter, but I would point out that there is now

[25] *Post*, p. 698.

a ferry over the Canal at Pedro Miguel which gives adequate access to west side areas and there are certain roads from Balboa to Gamboa (leading through Pedro Miguel) and from Colon to Fort Randolph, about half way to Cativa. There does not as yet appear to be an economic necessity for further roads than those that already exist, but when that necessity arises and when the Panaman Government has constructed contributary roads outside of the Zone, the American authorities will be hospitable to any proposals from the Panaman authorities for linking these highways up with the Canal ports.

I have noted with gratification your statement that in entering upon negotiations for a new agreement after the abrogation of the Taft Agreement, Panama does not intend to assume the attitude of a nation whose interests are antagonistic to those of the United States, but desires to deal with the United States openly and frankly as a staunch friend, and I am confident that with the removal from the discussion of points which, as I have said, could not be regarded as tenable or as presenting questions for consideration, the way will be prepared for the appropriate statement by each Government of its point of view on the matters which will properly enter into the negotiations. If Panama will come to the negotiations in the spirit which you describe, and which also animates my Government, I am confident that a satisfactory arrangement will soon be reached.

Accept [etc.] CHARLES E. HUGHES

711.192/6a

The Secretary of State to President Coolidge

WASHINGTON, *October 15, 1923.*

MY DEAR MR. PRESIDENT: On Tuesday, February 6, 1923, (legislative day of Monday, February 5,) the House of Representatives passed without amendment Senate Joint Resolution 259,[26] authorizing the President to abrogate the international agreement embodied in certain Executive Orders relating to the Panama Canal, commonly known as the Taft Agreement.

This agreement was intended as a temporary arrangement to cover the period of the construction of the Canal and as such it has served its purpose, since the Canal has for sometime been open to commerce. It no longer provides an adequate basis for the adjustment of questions arising out of the relations between the Canal Zone authorities and the Government of Panama, and it is the opinion of this Department, and, I am informed, of the War Department also, that the agreement should be replaced in the near future by a more permanent

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[26] *Post*, p. 677.

arrangement. I, therefore, beg to suggest that, as the first step towards arriving at a satisfactory conclusion of a number of matters under discussion between this Government and the Government of Panama, as well as the conclusion of a permanent arrangement for the settlement of questions arising between the two Governments through the operation of the Panama Canal, you should give notice to the Government of Panama of your intention to abrogate the Taft Agreement, in accordance with the Joint Resolution above mentioned.

In order to allow reasonable time for the adjustment of outstanding questions, and the negotiation of the new arrangement between the two countries, I would suggest that a period of at least six months should be given between the first notification to the Panaman Government of the American Government's intention in the matter and the definite abrogation of the Taft Agreement. Accordingly, should you so authorize me I should be glad to inform the Panaman Government that the United States Government will abrogate the so-called Taft Agreement on May 1, 1924.

Sincerely yours,

CHARLES E. HUGHES

711.192/7

President Coolidge to the Secretary of State

THE WHITE HOUSE, *October 15, 1923.*

MY DEAR MR. SECRETARY: Replying to your letter of October 15th, suggesting that notice be given to the Government of Panama of the intention to abrogate the Taft Agreement, I am writing to authorize you to inform the Panaman Government that the Government of the United States will abrogate the so-called Taft Agreement on May 1, 1924.

Very truly yours,

CALVIN COOLIDGE

711.192/7

The Secretary of State to the Minister in Panama (South)

WASHINGTON, *October 18, 1923.*

SIR: You are informed that the House of Representatives on Tuesday, February 6, (Legislative day of Monday, February 5) passed without amendment the Senate Joint Resolution 259, authorizing the President to abrogate the International Agreement embodied in certain executive orders relating to the Panama Canal, commonly known as the Taft Agreement. A copy of this Joint Resolution is attached herewith for your information.

You will please inform the Panaman Foreign Office that the Government of the United States will, in virtue of the congressional authorization above cited, abrogate on May 1, 1924, the International Agreement, commonly called the Taft Agreement, embodied in the executive orders mentioned in the Senate Joint Resolution.

I am [etc.] CHARLES E. HUGHES

[Enclosure]

Senate Joint Resolution 259 Authorizing the President to Abrogate the International Agreement Embodied in Certain Executive Orders Relating to the Panama Canal

WHEREAS it is provided in the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912, "that all laws, orders, regulations, and ordinances adopted and promulgated in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal are hereby ratified and confirmed as valid and binding until Congress shall otherwise provide"; and

WHEREAS among the orders so ratified and confirmed as valid and binding are Executive orders, issued by the Secretary of War, by direction of the President, on December 3, December 6, and December 28, 1904, January 7, 1905, and January 5, 1911, in which were embodied the terms of an agreement reached between the Secretary of War and officials of the Panama Government to serve as a *modus operandi* during the construction of the canal; and

WHEREAS the purpose of the agreement in question has passed with the formal opening of the canal, and the agreement no longer provides an adequate basis for the adjustment of questions arising out of the relations between the Canal Zone authorities and the Government of Panama, and should be replaced by a more permanent agreement:

Resolved, etc., That the President be authorized to abrogate the international agreement embodied in the Executive orders issued as aforesaid, on December 3, December 6, and December 28, 1904, January 7, 1905, and January 5, 1911.

SEC. 2. That when the President shall exercise the authority hereby granted, such orders shall no longer be valid and binding, and the legal effect of these orders given to them by the said act of Congress approved August 24, 1912, shall be repealed.

611.1931/61

The Minister in Panama (South) to the Secretary of State

No. 352 PANAMA, *November 17, 1923.*
[Received November 27.]

SIR: I have the honor to enclose herewith, for the information of the Department, a copy of a note, with a translation thereof, concerning the abrogation of the Taft Agreement, which was sent by the Foreign Office to this Legation.

From this note it appears that Panama will contest the right of our Government to abrogate the Taft Agreement, unless a new treaty is accepted by both countries prior to May 1, next, which looks like an attempt upon the part of Panamá to place the burden of rushing through a new treaty upon our Government.

As it is more to the advantage of Panamá than it is to our Government that a new treaty be in force, it is presumed that they will propose that the negotiations be commenced as soon as possible and that such a proposition will be made in Washington.

As it will be to the advantage of our Government to have Panamá make the first proposals in the matter and to state their own position before we are called upon to state ours, no reply will be made to the attached note until instructions have been received from the Department.

I have [etc.] J. G. SOUTH

[Enclosure—Translation [27]]

The Panaman Secretary of Foreign Affairs (Garay) to the American Minister (South)

S. P. No. 2527 PANAMA, *November 14, 1923.*

MR. MINISTER: I have received Your Excellency's note no. 176, in which you inform me that "the Government of the United States will, in virtue of the Congressional authorization granted by the Senate Joint Resolution No. 259, passed by the House of Representatives on Tuesday, February 6, 1923, abrogate on May 1, 1924, the international agreement, commonly called the Taft agreement, embodied in the Executive orders mentioned in the Senate Joint Resolution."

Your Excellency understands that the Taft agreement, although it was not entered into between the Department of State of the United States and the Department of Foreign Relations of Panama, but by the Secretary of War of the United States and the President of the Republic of Panamá and his Cabinet, has been, nevertheless, a

[27] File translation revised.

true public treaty that has committed the faith of the two contracting countries.

It is the custom that international contracts of this class may not be modified or abrogated without the previous consent and agreement of both parties; and although our two Governments are actually engaged in studying the bases of a new arrangement between them, better suited to conditions of life on the Isthmus now that the Canal is constructed, the questions which we must resolve are so many and of such importance that one can only conjecture as to the time that will elapse before our two Governments come to a satisfactory agreement.

In view of this fact, and since the Joint Resolution of the Congress of the United States, a copy of which Your Excellency has furnished me, does not fix an exact time limit for the Executive of the United States to proceed to the abrogation of the so-called Taft agreement, the Government of Panama is obliged to make the most express reservations as to the sufficiency of the period that the Executive Power of the United States on its part has thought necessary to fix in order to proceed to the definite abrogation of the agreement.

If this period proves to be sufficient—which is improbable—for the purpose of replacing the present agreement by one which would better serve the interests and aspirations of both parties, this Government would not raise the least objection; but it cannot admit, if such should not be the case, and if the 1st of May, next, finds us without having yet settled the difficulties inherent in the weighty negotiations which are to be initiated, that the Government of the United States may unilaterally declare that agreement abrogated without awaiting the discussion, acceptance, and approval of the new pact under consideration, by means of all the constitutional and legal formalities of our respective countries.

I avail myself [etc.] NARCISO GARAY

611.1931/61

The Secretary of State to the Minister in Panama (South)

No. 150 WASHINGTON, *December 14, 1923.*

SIR: The receipt is acknowledged of your despatch No. 352 of November 17, 1923, transmitting a note from the Secretary of Foreign Affairs of Panama regarding the abrogation of the so-called Taft Agreement.

The Department desires that you make the following reply to the note in question:

"I have the honor to acknowledge the receipt of Your Excellency's note, dated November 14, 1923, in reply to my note of the sixth of

the same month informing you of my Government's intention to abrogate the so-called Taft Agreement on May 1, 1924.

"Your Excellency states that, inasmuch as the Taft Agreement was entered into on behalf of their respective Governments by the President of Panama and the Secretary of War of the United States, it is a true public treaty and cannot, therefore, be abrogated without the consent of the Republic of Panama. You add that, although our two Governments are at present engaged in considering the bases of a new arrangement better suited to conditions on the isthmus, now that the canal has been constructed, it is impossible to determine the period of time which will be occupied by the negotiations of such an arrangement and that for this reason the Government of Panama is obliged to make express reservations as to the sufficiency of the period at the termination of which the United States Executive has determined that the Agreement shall cease to operate.

"You state, furthermore, that in the event it shall prove possible prior to May 1, 1924, to replace the present agreement with one more responsive to the interests and aspirations of both parties, your Government will make no objection to the abrogation of the Agreement on that date, but that if the negotiations incidental to the new arrangement contemplated shall not first have reached a successful conclusion in the form of a pact formally accepted by both Governments, the Government of Panama cannot admit that the United States Government may on its sole authority declare the Agreement abrogated.

"I have been directed by my Government to make the following reply to Your Excellency's note under acknowledgment. The Government of the United States finds itself unable to concur with the construction which the Government of Panama has sought to place upon the temporary agreement, or *modus vivendi*, embodied in the Executive Orders of December 3, 6, 28, 1904, January 7, 1905, and January 5, 1911, the first of which was the subject of an agreement accepted by the President of Panama and the Secretary of War of the United States following conversations held at Panama from November 28 to December 3, 1904.

"The Government of the United States is constrained to call the attention of the Government of Panama to the fact that it was not the understanding of this Government either before or after the negotiations preliminary to the establishment of the Agreement that it was anything other than a *modus vivendi* to serve as a temporary basis for the settlement of difficulties outstanding between the two Governments during the construction operations of the Panama Canal. This was made clear to the representatives of Panama by Mr. Taft at the conference which met in the President's Palace at Panama on November 28, 1904, at 10 a.m., the day following his arrival on the isthmus. In discussing the purpose of his mission to Panama, Mr. Taft said, in the presence of President Amador and Mr. Santiago de la Guardia, Panaman Secretary of Foreign Relations:

'Now, as I have said already, it is not for me to enter into a discussion, because I have not the power to vary the position taken by Secretary Hay with reference to the extent of the powers which the United States might lawfully exercise in the Zone.

'But my attitude must be this: Assuming the power to the extent declared in Secretary Hay's note, how far can I go in waiving the exercise of these

powers and withholding the exercise of powers already exercised, so as to assure the Government of Panama that we wish to exercise no powers that we do not deem necessary in the construction, maintenance and protection of the Canal?

'Now, I am not in a position to waive absolutely—I mean to give up the right to exercise—those powers, but I am given authority by the President to establish now, subject to action by Congress, a nonexercise of those powers, such as I hope will be satisfactory to the Government of the Republic, and will continue indefinitely until the construction of the canal shall so affect the relations and conditions existing as to require a new adjustment of the relations between the two Governments.

'Now, that I may make myself plain: With the present Government, with President Amador and these gentlemen as his advisers, it might very well be that we should allow to lie dormant the exercise of powers that in case of the election of a Government whose personnel would not be so friendly to the United States we might have to use, and thus to protect our construction and maintenance and control of the Canal by the exercise of greater powers than those we desire not to exercise.

'I must make my position clear with respect to this, so that there will be no misconception of the extent of my powers. What I am here for is to see what now can be done in our actual conduct and by the issuing of an Executive Order which shall repeal or effect or modify orders already issued, which shall suit your views with respect to the points you have mentioned.'

"Acting under this conception of the powers conferred upon him by the President of the United States, Mr. Taft succeeded in arriving at a complete understanding with the high authorities of the Republic of Panama; but prior to submitting his draft of the prepared [*proposed?*] settlement for final acceptance by the Government of Panama, he addressed on December 2, 1904, a telegram to the Department of State [28] containing a summary of the provisions of the suggested settlement. In that telegram he expressed the following opinion concerning the transitory nature of the order which he proposed should embody the provisions of the agreement:

'The order is of course revocable at will, and its operations can be suspended by Panama by refusal to continue compliance with any of its conditions, but I believe from conference that, adopted, it will continue satisfactory basis of relations between parties until opening of canal.'

"That it was not the intention of my Government, acting through its Secretary of War, to bind the United States to any definitive interpretation of its rights under the Treaty of 1903, is further emphasized by the following statement of Mr. Taft before the Committee of Interoceanic Canals of the United States Senate on April 18, 1906:

'The stenographic account of our first conference shows quite clearly the attitude which I felt under the instructions of the President it was proper for me to take, namely, that I was there not to construe the treaty, not to assert the full powers of the United States, but to make a *modus vivendi* which should bind neither party to any permanent construction of the treaty.'

"An examination of the provisions of the Executive Order of December 3, 1904, reveals, in the opinion of my Government, the transitory character of the Agreement, but it is believed sufficient for present purposes to cite in this connection the concluding section of the Order:

'The operation of this Executive Order and its enforcement by officials of the United States on the one hand, or a compliance with and performance of the conditions of its operation by the Republic of Panama and its officials on the

[28] Not printed.

other, shall not be taken as a delimitation, definition, restriction or restrictive construction of the rights of either party under the treaty between the United States and the Republic of Panama.'

"Inasmuch as the non-exercise of certain rights conferred upon the United States by the Treaty in question was stipulated in the Agreement, the meaning of the foregoing section XII is clear in the sense that the United States Government reserved to itself entire freedom of action in case it should at a subsequent time desire to withdraw from the Agreement. The Agreement, since it was intended as a temporary arrangement to cover the period of the construction of the Canal, is thus deemed to have served its purpose. It no longer provides a suitable basis for the adjustment of questions arising out of the relations between the Canal Zone authorities and the Government of Panama.

"The Department has noted the expressions of the Panaman Government's opinion that the period of approximately six months, at the termination of which this Government has announced its intention to abrogate the Taft Agreement, will prove to be insufficient for the consideration of the more permanent arrangement by which it is proposed to supersede that Agreement. In this connection my Government desires me to invite your attention to the fact that it has already expressed in its note dated October 15, 1923, to the Panama Legation in Washington, its willingness to enter into negotiations with the Government of Panama for an agreement by which it is hoped to settle all matters in controversy between the two Governments. The Government of the United States, relying upon the announced intention of the Government of Panama in entering upon such negotiations to deal with the United States openly and frankly as a staunch friend, and not to assume the attitude of a nation whose interests are antagonistic to those of the United States, entertains the hope that these negotiations will not be protracted beyond the date specified."

I am [etc.] CHARLES E. HUGHES

611.1931/63½

Memorandum by the Secretary of State of a Conversation with the Panaman Minister (Alfaro), December 15, 1923

. . . . . .

Abrogation of Taft Agreement. The Minister said that his Government had viewed with concern the notice which had been given of the abrogation of the Taft Agreement on the first of May, 1924. The Minister reviewed the situation from the standpoint of the Panaman Government, referring to President Roosevelt's statement that it was not intended to create a United States colony in the midst of Panama and to a statement attributed to President Taft that Panama had retained her "titular sovereignty" over the territory comprised in the Canal Zone. The Minister said that on the abrogation of the Taft Agreement there would be the same

situation that existed at the time it was originally negotiated by Mr. Taft; that is to say, there was great dissatisfaction with the provisions of the Treaty and a feeling that if it had not been for Bunau-Varilla much better terms for Panama could easily have been arranged; that Mr. Taft and the United States Government had desired to take account of this feeling and had arranged in consequence the Taft Agreement. Now all the old questions would be brought up; the prestige and position of Panama as a nation were concerned. His Government felt that the Agreement could not be abrogated unless a new Agreement was provided to take its place and that this required a consideration of these questions relating to the position of Panama and her commerce. The Panaman Government did not dispute the control of the Canal Zone for the purpose of constructing and protecting the Canal, but when it came to commerce and other sovereign rights it was a different matter. The Panaman Government feared that the time allowed for the negotiation of a new agreement would be too short and that they wished to inquire as to the intentions of the United States Government and what would be the attitude of that Government in case a new agreement were not reached before May 1, 1924.

The Secretary said that this Government had received a note from the Panaman Government bearing upon the abrogation of the Taft Agreement and had instructed the Minister at Panama to make reply. The Secretary then read to the Minister (Mr. Alfaro) the substance of the instruction sent to Minister South in Despatch No. 150 of December 14, 1923. The Secretary said that this Government held there was no question as to its right to terminate the Taft Agreement. He pointed out, as stated in the instructions above mentioned, what Mr. Taft had said at the time of the negotiation of the Taft Agreement with respect to its being a temporary arrangement pending the construction of the Canal. The Secretary said that we were free at any time to abrogate the Agreement and we had given notice that it would be abrogated on May 1, 1924. In answer to the Minister's inquiry as to what would be the situation in case a new agreement had not been effected by that time, the Secretary said that we would stand upon our treaty rights without the Taft Agreement which had been abrogated.

The Secretary said that there was no disposition, however, to deprive Panama of a proper opportunity for negotiations with respect to a new arrangement which would be mutually satisfactory and that for this reason, instead of abrogating the Taft Agreement outright, a period of time had been allowed, that is, until May 1, 1924, which was deemed sufficient time for the negotiations. The Secretary said that he hoped that negotiations would immediately proceed

and they could be conducted between the Canal Zone authorities and the representatives of the Panaman Government, and if it was possible to reach any agreement, it could certainly be reached in the next five months. Replying to the general suggestions made by the Panaman Minister, the Secretary said that there were two sorts of considerations which the Minister had advanced,—those of a fundamental character in relation to the rights of the United States in the Canal Zone, and those of a practical sort with respect to certain particular exigencies where without prejudice to the fundamental rights of the United States it might be possible to meet the wishes of the Panaman Government.

The Secretary said that as to the first sort of considerations, this Government would never recede from the position which it had taken in the note of Secretary Hay in 1904.[29] This Government could not and would not enter into any discussion affecting its full right to deal with the Canal Zone under Article III of the Treaty of 1903 as if it were the sovereign of the Canal Zone and to the exclusion of any sovereign rights or authority on the part of Panama. The Secretary said that he was speaking to the Minister quite candidly, as he thought that candor aided friendship. It was an absolute futility for the Panaman Government to expect any American Administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903. The Secretary said that it would be well if the Panaman Government would recognize this fact and accept it. This would lead to much better relations between the two Governments. The Secretary said that in his recent note, in answer to the questions Panama had raised, he had reviewed the history of the Treaty and had answered the contentions made with respect to it. This must be regarded as ending the discussion of that matter. The Secretary would not enter into any discussion whatever with regard to the fundamental considerations involved. While this was so, this Government had every desire, as the President had recently stated to the Minister, and the Secretary had himself stated,—not to exercise the rights which the Government had in a manner unnecessarily prejudicial to the interests of Panama and therefore the Secretary, in his note to Panama, had expressed a willingness to enter into negotiations with regard to certain matters which might be satisfactorily adjusted. The Secretary spoke particularly of the valuation of property that might be taken in the future and said that, without repeating what he had said in his note, he must refer to that note as indicating the subjects which could be taken up.

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[29] *Foreign Relations*, 1904, p. 613.

The Minister said that the position taken by the Secretary might be sound from a technical, legal standpoint, but the Government had frequently said that they had no desire to interfere with the prosperity of Panama and that what they wanted was such an administration as would give Panama the benefits to which she was rightfully entitled, and that the United States, apart from the management and protection of the Canal, would not attempt to be a commercial competitor, thus establishing a colony in the midst of Panama to her disadvantage.

The Secretary said that he could not understand the complaint of Panama with respect to her general prosperity; in fact, the Canal had made Panama. They had no complaint whatever. The United States, at enormous expenditure, had created a situation which was a constant and increasing benefit to Panama. The idea that the Panaman people had any ground for complaint against the United States because of the construction and administration of the Canal, in its general bearing upon the prosperity of Panama, seemed to the Secretary most extraordinary. Reiterating, however, the desire that there should be negotiations with regard to the particular points where it would be possible to avoid certain elements of hardship to which Panama had directed attention, the Secretary referred to his note on this subject.

The Minister said that his Government did not desire the negotiations to take place at the Canal Zone or with the Canal Zone authorities. He said the President expressed himself in a most friendly manner with respect to Panama; so did the Secretary. But the authorities at the Canal Zone were military authorities; they were disposed to be dictatorial; they desired constantly to impress upon Panama that they were the real masters of the situation and that the Panaman authorities were virtually subordinates. This created constant irritation. The Panaman Government felt that it would not have the sort of hearing that it ought to have and therefore earnestly desired the negotiations to take place in Washington.

The Secretary said that there was no objection, of course, to the Panaman Government presenting its views at any time to the Secretary; that the Minister was entirely right with regard to the feeling of friendship that existed on the part of the President and the Secretary toward the Panaman people. The Secretary said that he wished the negotiations conducted in this spirit. While he was bound to insist upon the fundamental rights of the United States, he had a most earnest desire to meet the wishes of the Panaman Government wherever he could consistently do so. The Secretary pointed out that the suggestion that the negotiations should proceed between the Panaman authorities and the Canal Zone authorities was in the

interest of speed. These negotiations would relate to certain questions in which an exact knowledge of the facts is important. The Secretary did not have these facts at first hand. He would have to communicate with the Canal authorities. The Panaman representatives would advance certain points; the Secretary would have to ask the Canal Zone authorities about them and then communicate with the Panaman authorities, and this triangular procedure would use up a great deal of time. The Secretary did not think that there was any reason for this. At the end the Treaty or agreement would have to be considered by the Department of State and considered in the light of the Panaman Government's considerations. The Secretary thought it would be quite possible to have the negotiations conducted without injury to the interests of Panama but in a manner which would facilitate.

The Minister illustrated by saying that it was the practice, if they wanted some more land merely to send a notice or they would take it in an arbitrary and abrupt manner; that the Panaman Government was not treated courteously by the Canal Zone authorities. The Secretary said that he recalled that this matter had recently been brought before the Department and the Secretary had suggested that the Panaman Government should indicate the procedure it desired, and so far as he remembered the Panaman Government had not answered this inquiry.

The Secretary asked just what it was that was in the mind of the Minister which, in view of the statements the Secretary had made as to the fundamental rights of this Government under the Treaty, the Minister regarded as the subjects for negotiation, apart from the question of land valuation. The Minister said that he had in mind the question of commerce and the prestige and position of the Panaman Government. The Secretary said that if this meant the question whether supplies could be furnished to ships going through the Canal, this had already been fully answered. It could not conduct the Canal without providing for supplies to ships. The Minister answered in a general way, referring to commerce without specification. The Secretary said it was quite impossible for him to form a judgment upon such a general statement; that it must be translated into something concrete that the Panaman Government desired, and then the Secretary could see whether it was possible or not.

The Minister reiterated the desire of the Panaman Government to have direct dealings at Washington, and the Secretary again said that there was not the slightest objection to the Panaman Government presenting to the Department what they desired or the general principles which should govern the negotiations; that, of course, the

Department would be willing to express its views upon these principles and then the negotiations could proceed in the light of the principles thus established. The Secretary said that he desired to retain the advantage of the direct knowledge of the facts on the part of the Canal Zone authorities and of the expedition which would follow negotiations on the spot, but he had no wish to prevent the Panaman Government from fully expressing their wishes to the Department and he could assure the Minister that whatever might be presented would be carefully considered and frankly answered.

LOAN OF $4,500,000 TO PANAMA BY AMERICAN BANKERS

819.51/357 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, *December 15, 1922—4 p.m.*

[Received 10 p.m.]

66. The following project to provide legislation anticipated by article 138 of Panama Constitution was introduced in the National Assembly on 11th instant and passed first reading on the following day with one dissenting vote.

"Article 1. According as each mortgage, in which the six million treated of by article 138 of the Constitution are now invested, fall due and are canceled, the Secretary of Finance and Treasury shall order that they be placed in the National Bank. The sums which it receives in fulfillment of this law shall be invested in national securities in the form wherein said institution transacts such business.

Article 2. The sum which is at present deposited to the order of the Panaman Government in the Metropolitan Trust Company of the United States, is ordered to be used for the amortization treated of by law 41 of 1915.

The remainder of the loan shall be paid from the national funds."

Department's attention is directed to vagueness of concluding sentence of first article by virtue of which practically no limitation is imposed upon manner in which sums may be invested. Save for changes in wording and omission of phrase providing that funds "should augment capital of national bank" project is similar to a bill recently approved by Assembly but vetoed by the President on the ground of unconstitutionality implied in the phrase quoted. It is their opinion present measure has administration's approval and Ruan believes that it will pass.

. . . . . .

SOUTH

819.51/357 : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, *December 28, 1922—6 p.m.*

58. Your December 15, 4 p. m.

If the proposed law should be passed you will make formal and energetic representations to the President [30] to dissuade him from signing it. You will point out that the Government of Panama assured the government of the United States on December 31, 1903,[31] before the ratification of the Canal Treaty, that it intended to invest the bulk of the $10,000,000 paid by the United States in a permanent manner, so that the fund would always remain intact in order to give stability to the finances of the Government. You will also remind the government that this matter was again discussed at the time of the payment of the $10,000,000 to Panama and that the United States insisted that the fund should be safely invested to secure the stability of the Government's finances and that Panama accepted the point of view of this Government.[32] To transfer this fund to Panama, and to confide its investment to the National Bank does not appear to this Government a sound procedure, or a procedure consistent with Panama's undertakings above referred to, especially as no adequate safeguards appear to be provided to govern the investment of these funds. In view, therefore, of the understanding between the two Governments in accordance with which the Canal Treaty was ratified and the money paid over, the Government of the United States hopes that the President of Panama will not sanction the law in question.

HUGHES

819.51/366 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, *February 17, 1923—11 a.m.*

[Received 8:33 p.m.]

14. My despatch no. 192, January 15th.[33] President yesterday approved bill authorizing loan up to $4,500,000 for road building purposes. Section providing for withdrawal from the United States of six-million-dollar fund eliminated.

SOUTH

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[30] Belisario Porras.
[31] *Foreign Relations*, 1903, p. 281.
[32] See *ibid.*, 1904, pp. 651–655.
[33] Not printed.

819.51/369 : Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, *March 9, 1923—noon.*
[Received 7 p.m.]

23. Pending the negotiations for loan of $4,500,000 Government has approached bankers here in regard to a loan of $100,000 for purpose of continuing program of road construction. Bankers are willing to loan $100,000 if Department has no objection. Reply awaited.

SOUTH

819.51/369 : Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, *March 15, 1923—7 p.m.*

18. Legation's March 9, noon. Cable immediately names of banking interests.

Does Government regard loan of $100,000 as an advance on the $4,500,000 loan, to be repaid out of the proceeds thereof?

As yet Department has not been consulted in regard to loan of $4,500,000. . . .

. . . . . .

HUGHES

819.51/370 : Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, *March 16, 1923—4 p.m.*
[Received 10 p.m.]

27. Department's cable number 18, March 15. I regard this matter as extremely urgent. Only $10,000 now remains for continuance of road construction and all operations will have to cease by April 1 unless more funds are forthcoming. Great losses would follow if operations are abandoned, since the oncoming wet season would destroy much uncompleted work. Likewise it would be necessary to remove men and equipment now on the roads. West [34] and Baldwin [35]

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[34] R. K. West, chief engineer of the Junta Central de Caminos.
[35] Floyd H. Baldwin, subfiscal agent in Panama.

made the suggestion that Panaman Government secure $100,000 in equal amounts from International Banking Corporation, Banco Nacional and American Foreign Banking Corporation. There is no connection between the loan of $100,000 and the loan of $4,500,000, but the Government proposes to pay former out of proceeds of latter.

Managers of above-mentioned banking interests were invited to a conference by Baldwin who acted for the Minister of Finance. The American interests would not respond until Legation's opinion had been ascertained. The Minister of Finance is greatly wrought up because of refusal of American managers and he has threatened to secure the whole amount at the Banco Nacional and withdraw deposit of $300,000 now deposited with American houses. Minister of Finance also told Baldwin that certain American banking interests had offered to loan Government large sum of money under authorization of the $4,500,000 loan, and without asking the opinion of the Department. . . . I have heard rumors that the National City Bank, subject to the approval of the Department, is interested in the matter.

The loan of $100,000 is strongly favored by Baldwin, and it is my recommendation that no objection to it be interposed by the Department. Baldwin's confidential opinion in the matter of the loan of $4,500,000 is as follows: He regards a loan not exceeding $3,000,000 as beneficial, since it would make possible building of road between Panama City and Nata, thereby connecting capital with roads previously constructed costing $3,000,000, and would indicate advisability of extending road construction program. . . .

SOUTH

819.51/383

Memorandum by the Chief of the Division of Latin American Affairs, Department of State (White) for the Secretary of State

WASHINGTON, *April 25, 1923.*

The Panaman Minister called today to state that Dr. Eusebio A. Morales, the Minister of Finance of Panama, will arrive in Washington tonight and that he would like to bring him in at the regular diplomatic hour tomorrow for a moment to present him to you.

Dr. Morales is given the rank of Envoy Extraordinary and Minister Plenipotentiary for the purpose of negotiating a loan of not more than four million, five hundred thousand dollars for road construction in Panama. He is accompanied by Señor O. A. Vallarino and Señor Juan Morales R. as first and second secretaries respectively, and also by Mr. R. K. West, American Engineer in charge of road construction in Panama, as technical adviser. Señor Alfaro

stated that Mr. West will be charged with conferring with the War Department regarding the roads contemplated in order that Panama may find out which ones may be considered of strategic importance, so that they may make proper arrangements for adequate bridges to support heavy army lorries.

WHITE

819.51/384b

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, *May 18, 1923.*

SIR: Referring to your conversation with Mr. White this morning regarding the proposed loan for $4,500,000 for which you said negotiations had been going on in New York for sometime, I beg to confirm Mr. White's statement at that time that a draft contract and prospectus for the proposed loan have been submitted to the Department, and that it notes that the unpledged portion of the annual payments due to the Republic of Panama from the United States, under Article XIV of the Treaty of November 18, 1903, has been allotted as part security for the loan.

As your Government is aware, this Government has already requested that the unpledged portion of the canal annuity for this year be used in part settlement of the arrears in payment of the water rates in Panama City, and I have, therefore, the honor to inquire what arrangements the Panaman Government proposes to make for the liquidation of its indebtedness to the Canal, should this Government consent to the assignment for the proposed loan of the unpledged portion of the canal annuity.

In accordance with the Department's traditional desire to be of as much help as possible to the Panaman Government, on account of its friendship for Panama and the interest it takes in Panaman affairs, I desire to repeat the inquiry made by Mr. White this morning as to whether the Panaman Government has considered the question of having the contracts for the road construction and the completed work passed on and accepted by the Central Road Commission before payment therefor is made, and that provision be made for such payments to be effected in the customary manner for disbursements from the Panaman Treasury. Your informal suggestion of this morning that this would be helpful and could perhaps be accomplished by a decree of the Panaman Government would appear to be a most satisfactory arrangement, and this Government ventures to hope that the Panaman Government will adopt the suggestion in this sense, which you expressed your readiness to make to it. This

Government is also gratified to learn that negotiations for a Fiscal Agent are progressing, and it hopes that they may soon result in the appointment of a satisfactory person. This Government believes the Fiscal Agent can be of no little service to Panama in the many difficult financial matters with which it is concerned, and that his advice will doubtless be of great value in the carrying out of the work provided for in the law authorizing the loan now under consideration.

I have the honor, furthermore, to inquire whether your Government has considered the question of calling for public bids in the matter of the contemplated loan.

Accept [etc.] CHARLES E. HUGHES

819.51/386

The Panaman Minister (Alfaro) to the Secretary of State

[Translation [86]]

WASHINGTON, *May 21, 1923.*

MR. SECRETARY: I have the honor to reply to Your Excellency's note of the 18th instant in regard to the loan of $4,500,000 which the Republic of Panama intends to contract in the United States for the construction of roads.

The Panaman Government is deeply thankful to your Excellency's Government for the interest shown in the welfare of the Republic, and being animated by this sentiment I will proceed to reply to the various points which you propound to me in the communication in question.

Your Excellency asks to be informed as to what arrangement the Panaman Government contemplates making for the purpose of settling its debt with the Canal, arising from the deficit which is said to exist in the water tax collected in the cities of Panama and Colon for the amortization stipulated in the Canal treaty. In this respect I am pleased to inform Your Excellency that on Saturday last, the 19th instant, the Government remitted the sum of $121,456 United States coin to the Canal authorities, through the American Minister at Panama, on the debt arising from the deficit in the water account up to March 31 of this year, which was the date of maturity of the last quarter settled, this payment being made subject to the claims which Panama has in connection with the system employed for settling her portion of the expenses of maintaining and operating the aqueduct, and which leaves the Republic of Panama free of indebtedness to the Canal on this score.

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[86] File translation revised.

With respect to the second point of the note which I am answering, I likewise take pleasure in informing Your Excellency that the contracts for the construction of roads will be let to public bidders, being examined and accepted by the Central Roads Board, and the work done by the contractors being subject to the approval of the said Board, which, in giving its approval will authorize the payment of the sums due. The Government furthermore proposes to deposit separately the funds proceeding from the loan, in order that all disbursements may be made under the supervision of the Central Roads Board so that the purposes of the law authorizing the loan and of the law creating the Central Roads Board may be more fully and efficiently attained.

The Executive Power has the authority and intends to issue any Executive decrees that may be necessary for the accomplishment of the main purpose of the Government, that is, that the funds received from the loan may be devoted solely and exclusively to the construction of roads and bridges, and that the investment may be as advantageous as possible.

In this connection I likewise take pleasure in stating to Your Excellency that Doctor Eusebio A. Morales, Secretary of the Treasury of Panama on Special Mission, has instructions and full power to enter into a contract with a person in fiscal matters to serve as Fiscal Agent of the Republic, in accordance with the provisions of the Panaman law on the subject. The Secretary and I have given special attention to this matter and we believe we shall be able to obtain within a few days the services of a person who possesses the qualifications required for the discharge of this delicate office, for it is our desire that the new Fiscal Agent may enter upon his duties not later than next month.

With regard to the final question propounded to me by Your Excellency as to whether the Government has considered the question of calling for bids for the loan, the Secretary of the Treasury on Special Mission informed me that the method employed by him was to investigate the probable offers to be made by the most reputable banking houses of New York City which had shown interest in this loan, and that he became convinced through this investigation that the highest and most advantageous offer which the Republic could receive was that made by Messrs. W. A. Harriman & Company, and the Guaranty Trust Company, with which two firms it has signed a contract for placing the bonds of the loan.

I avail myself [etc.] R. J. Alfaro

819.51/391

The Secretary of State to W. A. Harriman and Company, Inc., New York City

WASHINGTON, *May 22, 1923.*

GENTLEMEN: The Department has received your letter of the 21st instant [37] stating that you are negotiating for the purchase of an issue of Thirty Year five and one-half per cent External Secured Sinking Fund Gold Bonds of the Republic of Panama, of the aggregate principal amount of $4,500,000. You state that these bonds are to be specifically secured by the assignment of the net income from the Constitutional Fund of $6,000,000, now being administered by William Nelson Cromwell, as Fiscal Agent of the Republic of Panama, and invested in first mortgages on real estate in the City of New York, and by the annuity of $250,000, payable to the Republic of Panama in perpetuity on February 26th in each year, subject, however, until November 1, 1944 (or until the earlier satisfaction of the trust indenture of November 2, 1914, under which The Farmers' Loan and Trust Company is trustee) to the prior assignment to The Farmers' Loan and Trust Company of $190,259 of such annuity. You submitted a copy of the proposed contract and asked to be informed whether the United States Government acquiesced in the purchase of the proposed issue secured as outlined in the proposed contract.

In reply I beg to state that this Government, in the light of the information now before it, has no objection to offer to the purchase of the proposed issue.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS
Under Secretary

819.51/389 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, *May 25, 1923—12 noon.*
[Received 6:40 p.m.]

56. Department's 29, May 19, 5 p. m.[37] Morales yesterday telegraphed the President as follows omitting to mention name of bankers interested:

"The contract for the loan was signed May 16 and the transaction held in reserve until the bankers consulted the Department of State. To-day I am in a position to give you the details as follows. The

[37] Not printed.

amount of the loan is $4,500,000; the rate of interest is five and one half per cent yearly; the term for redemption is 30 years; the revenues affected as guarantees are the interest of the constitutional funds and the unassigned portion of the annuity paid by the Panama Canal; the amortization will begin by the payment of the small sum of $33,500 the first year and will increase gradually in proportion to the diminution of the interest up to 1944. From this year on the total of the interest of the constitutional funds and the total of the canal annuity will be dedicated to the payment of interest and amortization. The bankers are buying the bonds at 93".

SOUTH

OBJECTIONS BY PANAMA TO THE CONTINUED CONTROL OF ITS WIRELESS COMMUNICATIONS BY THE UNITED STATES

819.74/106

The Panaman Minister (Alfaro) to the Secretary of State

[Translation [38]]

WASHINGTON, *December 19, 1922.*

Mr. SECRETARY: In January 1914, the Government of Panama informed the Government of the United States through the American Legation at Panama [39] of its desire to conclude a convention relative to the interchange of wireless telegraphic messages between the stations which Panama intended to establish and those which were already in operation at that time and might thereafter be put in operation in the Canal Zone.

The American Minister reported under date of February 16, 1914, in his note F. O. No. 30,[40] that the question of wireless communications had already been thoroughly examined by a commission of experts whose report on the subject had won the approval of the Secretaries of War and of the Navy of the United States and that of the President of the United States, wherefore he proposed the following points that were to appear in the Convention it was desired to conclude: [41]

On the Part of Panama

a) To give to the United States Government the monopoly of all means of radio telegraphic communication within its territory, and to cancel all concessions for stations not at this time in actual operation if such exist.

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[38] File translation revised.

[39] Note of Jan. 14, 1914, from the Panaman Minister of Foreign Affairs, *Foreign Relations*, 1914, p. 1041.

[40] Not printed.

[41] See letter of Nov. 22, 1913, from the Secretary of the Navy, *Foreign Relations*, 1914, p. 1039.

b) To forbid the operation of any station on board a ship within the harbors or territorial waters of Panama, unless such ship be actually under way and making bona fide passage to or from port, and the station of a ship so making passage to port shall be required to communicate with the nearest coast station until such time as the ship shall have come to anchor or moored to the wharf as the case may be, after which the ship shall be required not to use its radio installation until it gets under way to make passage to sea; except that a ship at anchor in quarantine, or not yet having received pratique, may request permission to send messages to the nearest coast station, which permission may be granted, under conditions imposed by the coast station, until pratique is granted, when it shall terminate.

c) To connect its land system to, and exchange business with, any station now or hereafter operated by the United States Government in the Republic of Panama, and in the Canal Zone.

d) To become a signatory to the London Radio Telegraph Convention of 1912.

e) To regulate the existing private station or stations in the territory of Panama, according to the London Convention, and to license it or them according to the terms of the Radio Act of the United States of August 13, 1912, with the additional proviso that the physical control and operation shall pass to the United States Government whenever that Government may elect.

On the part of the United States

f) To give official and commercial radio telegraphic service to all shipping within the radius of operation of U. S. stations in the Canal Zone or the territory of Panama, without other limitations than those governing their ordinary operation.

g) To transmit and receive at its stations established under this arrangement free of all station radio charges, official messages to or from the Government of Panama, and to give them precedence over private or commercial messages.

h) To erect upon sites turned over free of all expense by the Government of Panama to the United States Government, and to operate under the regulations of the United States Naval Radio Service, other stations not to exceed four in number (exclusive of the two at the entrances of the Canal) as may be demanded by the exigencies of the shipping in the vicinity of the Republic of Panama [consequent upon the opening of the Canal], such exigencies to be determined jointly by the Government of the United States and Panama.

In July 1914, the Minister for Foreign Affairs informed the American Minister[42] that Panama accepted in general terms the proposal of the Government of the United States with reference to the proposed establishment of wireless telegraphic stations within the territory of the Republic, provided that the number be six instead of four, and that the location of the first four be agreed upon at

[42] See telegram of July 25, 1914, from the Minister in Panama, *Foreign Relations*, 1914, p. 1044.

once; and in the following August,[43] it was made known that the Government of Panama had special interest in the establishment of three wireless stations;—one at San Blas, another at Puerto Obaldía on the Atlantic coast, and a third at Darién on the Pacific coast; and that it had no objection to the Government of the United States carrying out the installation of those stations at the expense of the Government of Panama.

On August 15, 1914, the Panaman Government issued Decree No. 121,[44] by which it authorized the Governor of the Zone "provisionally to assume during the present situation in Europe the control of the wireless telegraphic stations, fixed and movable within the territory and territorial waters of Panama, etc."

The said Decree, which was issued by the Government of Panama in its desire to cooperate with that of the United States in averting the dangers which the European War offered to the safety of the Canal, did not meet the desires of the American Government, as expressed in note F. O. No. 91, of August 18 of that year to the Department of Foreign Relations by the American Minister who asked that the control be permanently ceded.[45]

It was then that the Executive Power issued Decree No. 130 of August 29, 1914,[46] under the pressure brought to bear by the American Government on the ground that the situation then created by the European War made it necessary for that Government to assume absolute control of the wireless communications in the Republic of Panama for the better defense of the Canal, and also owing to the interest which the Republic of Panama has always had in the conservation and operation of that work whose existence is intimately bound with that of our own country. But only in a fortuitous case, like the one which the belligerency of the European nations created in 1914, which involved, soon afterwards, the United States, could the Panaman Executive waive the legitimate right it holds to administer its own systems of communication and place them in the hands of the United States without first there be concluded a convention as is required in such cases and that the same be approved by the National Assembly as is required to give it validity and legal force.

Now the special circumstances which induced the Executive Power in 1914 to issue Decree No. 130 have disappeared with the termination of the European War, which brought about those circumstances.

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[43] Note of Aug. 14, 1914, from the Panaman Minister of Foreign Affairs, *ibid.*, p. 1047.

[44] Not printed.

[45] See despatch no. 263, Aug. 27, 1914, from the Minister in Panama, *Foreign Relations*, 1914, p. 1049.

[46] *Ibid.*, p. 1051.

On the other hand, the extraordinary progress and scientific development that has been achieved in the last few years in the matter of wireless communications imperatively demands a revision of these relations between Panama and the United States. Your Excellency knows the great development of radiotelephonic communications that are transmitted to all parts of the United States, concerts, speeches, conferences, reports, notices, and everything that may interest, inform, or amuse citizens of every class, condition, and occupation. This opportunity possessed by any company or private person in the United States is now denied to Panamans in Panama, where the Zone Government prevents the first club of radio-telegraphy organized there from enjoying these benefits of modern science. Thus the situation created by the Decree and the manner in which the American authorities in the Canal Zone exercise the control of wireless communication have given rise to the unprecedented spectacle in Panama where the Government of Panama cannot do in their country what any inhabitant of the United States, not only the citizens, but also the aliens, may do in theirs.

Therefore, the time has arrived to annul the said Decree and take up the negotiations between Panama and the United States relative to wireless communications where they were on February 16, 1914, the date of the note F. O. No. 30, in which the Minister of the United States at Panama proposed in the name of his Government, the bases of a Convention on the subject, and I bring this to Your Excellency's knowledge in compliance with instructions that have been sent me to that effect and with the most respectful request that you will kindly signify your concurrence.

I avail myself [etc.] R. J. Alfaro

819.74/106

The Secretary of State to the Panaman Minister (Alfaro)

Washington, *January 11, 1923.*

Sir: I have the honor to acknowledge the receipt of your note of December 19, 1922, in which you discuss the history of the decree issued in 1914 by the Government of Panama granting to the United States complete and permanent control over wireless communication within the Republic of Panama, and in which you state that, in view of new developments in the science of wireless communication, your Government feels that the time has arrived to annul the decree in question.

Permit me to call your attention to the fact that on August 25, 1914, this Government instructed its representative in Panama to inform the Government of Panama that it was its intention to exercise

permanent control of the wireless situation in the Republic of Panama.[47] This position was taken because it was regarded that such control was absolutely necessary. This Government had no doubt that it was entitled to exercise this control under the provisions of the Treaty with Panama of November 18, 1903,[48] as was constantly brought out in the course of the negotiations carried on between our two Governments from 1911 until August 29, 1914, concerning this matter (see *inter alia* the note No. 53, addressed by the American Legation at Panama to the Panaman Foreign Office under date of May 5, 1914 [48a]). Following upon these representations to your Government, which were communicated in a series of discussions between the American Minister and the Secretary for Foreign Affairs, the Government of Panama issued the decree of August 29, 1914.[49] This decree recites "that by the terms of the Bunau-Varilla–Hay Treaty the Republic of Panama is obliged to assist the United States by all necessary and suitable measures for the conservation, protection and defense of the inter-oceanic Canal constructed across the Isthmus;

"That the said Government considers it indispensable to this end that it shall assume from now on permanent and complete control of the wireless telegraphic stations fixed and movable in all the territory and territorial waters of the Republic of Panama;

"That it is to the interest and for the safety of the Republic of Panama that wireless communication be controlled and regulated by the nation which by a solemn pact has guaranteed its independence;" wherefore, "IT IS DECREED: From this date the radio-telegraphic stations fixed and movable and everything relating to wireless communications in the territory and territorial waters of Panama shall be under the complete and permanent control of the United States of America, and to attain that end said Government will take the measures which it deems necessary."

In the light of these circumstances and of the explicit statement of the decree, it is the view of the Government of the United States that the decree confirmed as a definite agreement between the Governments of the United States and of Panama the right of the United States, under the Treaty of November 18, 1903, to exercise permanent and complete control over wireless communication within the Republic of Panama. This control was expressly stated to be permanent after the question of granting control only during the period of the European war had been fully discussed. The United States requested such control not simply because war conditions made it necessary, but because such control was regarded as essential

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[47] Instruction not printed.
[48] *Foreign Relations*, 1904, p. 543.
[48a] Not printed.
[49] *Foreign Relations*, 1914, p. 1051.

for the proper protection of the Panama Canal and the guarantee of the independence of the Republic of Panama under the terms of the Treaty both in time of war and in time of peace. The United States cannot admit, therefore, that the cessation of the war in Europe, or the developments which have occurred in the science of wireless communication, justifies the abrogation of this agreement by Panama.

While insisting upon the maintenance of the decree in question, however, this Government is ready to discuss with the Government of Panama measures which might be taken to adapt the regulations laid down for the control of wireless communication in Panama to new conditions which have arisen as a consequence of the developments in the science of wireless communication. After consultation with the other officials of this Government I shall be glad to communicate to you such suggestions as may appear practicable for accomplishing this.

Accept [etc.] CHARLES E. HUGHES

819.74/106 : Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, *January 11, 1923—4 p. m.*

2. The Department is in receipt of a note from the Panaman Minister here with reference to the decree of 1914 giving the control over wireless to the United States. The Minister proposes that the decree be annulled because war emergency no longer exists and because development of wireless communication renders a revision of the decree necessary.

With reference to the Department's attitude in this matter consult files covering the negotiations for the years 1910 to 1914, and especially Department's telegrams dated April 29, 4 p. m., 1914[50] and August 25, 3 p. m., 1914,[51] and Legation's despatch No. 265 dated September 2, 1914.[52]

We are replying that this decree confirmed to the United States the permanent and absolute control of wireless in Panama accorded by the Treaty of 1903 and that this Government cannot give its consent to the annulment of the agreement which was reached in 1914. However, we are offering to discuss possible measures to adjust the regulations laid down by this Government so as to take cognizance of recent developments in methods of wireless communication.

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[50] *Foreign Relations*, 1914, p. 1042.
[51] Not printed.
[52] *Foreign Relations*, 1914, p. 1051.

Please ascertain whether Panama contemplates any immediate abrogation of the decree of 1914. If you think there is danger of such a step you may make an immediate and emphatic protest. Inform Department by cable regarding any developments.

HUGHES

817.74/110 : Telegram

The Minister in Panama (South) to the Secretary of State

[Extract—Paraphrase]

PANAMA, *January 24, 1923—7 p.m.*

[Received 11:30 p.m.]

7. Your no. 2 of January 11. It is my opinion that there is no immediate danger that Panama will rescind decree. Cabinet has discussed matter, probably as a precedent to forwarding instructions to Legation of Panama. Subject was not taken up at yesterday's Cabinet meeting. . . .

. . . . . .

Reliably informed that Panama ordered two receiving sets. It intends to place one of them in Presidential palace. Naval commandant whom I consulted is of the opinion that inasmuch as the control of all matters involving wireless telegraphy in Panama is vested in the United States we ought to enter a protest against said installation unless Panama first seeks and obtains our permission. There is no objection to granting permission subject of course to the usual conditions. Panama has not requested permission. It has ordered apparatus and seemingly does not intend to take matter up with American officials. . . .

SOUTH

819.74/110 : Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, *January 26, 1923—2 p.m.*

7. Commander 15th Naval District, C. Z., has been instructed by Navy Department to put into operation a schedule of telephone broadcasting for benefit of Panamans from a naval radio station under his command. You are instructed to consult Canal authorities and suggest to them that they put into force regulations which will permit the installation of receiving sets only subject to such restrictive measures as may be deemed essential to the protection of the Canal. Said regulations should be issued without delay, and if

possible before the arrival of the receiving sets mentioned by you. Such a course will obviate necessity of protest.

HUGHES

819.74/114 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, *April 26, 1923—4 p.m.*
[Received 6:40 p.m.]

47. Refer to my despatch number 212, February 19, 1923.[53] I received yesterday a reply . . . too long for transmission by cable and will be forwarded by next pouch.[53] Panaman Government denies that treaty of 1903 lends itself to interpretation granting the United States control of wireless communications reiterates Minister Alfaro's contention that *raison d'être* of decree of August 29, 1914 disappeared with conclusion of the war and declares that the control of wireless communications in Panaman territory excepting official communications of the United States in connection with the operation of Canal has returned *ipso facto* to the Panaman Government.

To the series of regulations suggested by the Canal Government the Panaman Government submits a counterproposal based upon its refusal to recognize the right of the United States to dictate and enforce regulations for the control of wireless communications in Panaman territory.

I am sending Governor of Canal Zone copy of Panaman memorandum for his information but shall take no further action pending Department's instruction.

SOUTH

819.74/117

The Secretary of State to the Chargé in Panama (Reed)

No. 117 WASHINGTON, *July 19, 1923.*

SIR: The receipt is acknowledged of the Legation's despatches No. 256 of April 30, 1923, and No. 273 of June 13, 1923,[54] relating to the question of the control of wireless communication in Panama.

It is noted that in your despatch of April 30 you state that the Panaman Government has indicated a willingness to put a stop to the operation of wireless receiving sets in Panama City pending the conclusion of an arrangement with the United States for the regulation and control of such installations. In view of this fact, and in view of the fact that the operation of wireless equipment on

[53] Not printed.
[54] Neither printed.

Panaman vessels in Panaman territorial waters does not appear to have caused any inconvenience thus far to the Canal Zone authorities, it would not appear necessary, unless additional difficulties should arise, to seek to bring the question of the control of wireless in Panama to an immediate conclusion. The Department would prefer to settle this matter definitely and finally in connection with the negotiation of the proposed new treaty, unless it should become necessary to bring it to a conclusion sooner.

If, therefore, the matter can be left *in statu quo* for the present without causing any inconvenience to the Canal officials, and without appearing to relinquish any of the rights claimed by the United States under the Panaman decree of 1914, it is not desired that you should make formal representations for the present, either with regard to the control of receiving sets on land or with regard to the operation of wireless on Panaman vessels. You are, however, authorized, if it should appear advisable, to make it clear to the Panaman Government, when the occasion arises, that the United States relinquishes none of the rights granted to it by the decree of 1914, and you will be guided by the Department's views as expressed in its note of January 11, 1923 to the Panaman Minister in Washington. If the operation of wireless installations upon Panaman merchant ships in the waters adjacent to the Canal Zone should interfere with the operations of the Canal, or if the operation of wireless receiving sets in the territory of the Republic should again be permitted, it is desired that you should report the facts immediately to the Department.

I am [etc.] CHARLES E. HUGHES

819.74/118

Memorandum by the Under Secretary of State (Phillips) of a Conversation with the Ecuadoran Minister (Elizalde)

[WASHINGTON,] *October 25, 1923.*

I sent for the Minister of Ecuador and referred to his inquiry of a week ago in regard to the opening of negotiations by his Government with Panama, with a view to the control of wireless messages between the two countries. I explained to the Minister that in view of the terms of the Treaty of 1903 with Panama, and of Decree #130, issued by the Government of Panama, August 29, 1914, we had certain vested rights in the control of wireless in Panama.

I suggested that it might be preferable to delay negotiations until the forthcoming Inter-American Communications Conference, when the whole subject of electrical communications for this hemisphere would be discussed. I thought that after the conclusion of the Con-

ference, if his Government desired to take up such negotiations, that they might again approach the subject through the Department.

The Minister replied that he had reached the same conclusion and it would be preferable, before taking any action in the matter, to await the results of the Inter-American Communications Conference.[55]

W[illiam] P[hillips]

REFUSAL BY THE UNITED STATES TO SURRENDER TO PANAMA FUGITIVES ESCAPING INTO THE CANAL ZONE FROM THE JUSTICE OF A THIRD GOVERNMENT

211f.19/–

The Secretary of State to the Panaman Minister (Alfaro)

Washington, *June 12, 1923.*

Sir: I have the honor to acknowledge the receipt of your note of May 24, 1923,[56] in which you state that your Government has been requested by the Government of Chile to arrest two fugitives from the justice of that country who embarked for Panama on the steamer arriving at the port of Cristobal May 23. You state that your Government granted the extradition as an act of comity and asked the assistance of the Canal authorities in order to have the fugitives arrested, but that the authorities of the Canal declared that as there had been no breach of the law of Panama by the accused it was impossible for them to act on the request but that they would arrest the fugitives pending further negotiations.

You add that Balboa and Cristobal are the ports where the interchange of passengers and merchandise between the Republic of Panama and foreign countries takes place and that the Canal Zone is as a rule not the final destination of foreigners but that it is a presumption that passengers landing at the terminal ports of the Canal who do not belong to the classes of persons whose duties are in the Canal Zone are on their way to the Republic of Panama, and that on the strength of that presumption it has been the invariable practice of foreign governments to apply to the Government of Panama for the arrest of fugitives bound for Panama.

Finally you state that your Government thinks it would be desirable and practicable to arrive at an agreement under which the Zone authorities would consider as a person wanted by the police of Panama, and consequently would assist in arresting, any offender whose extradition has been requested by a foreign government and

[55] Held at Mexico City, May 27–July 22, 1924.
[56] Not printed.

granted by the government of your country and you therefore ask that the present case be decided in that sense and the appropriate authorities so advised.

The Department is obliged to inform you that it appears that the executive branch of the Government of the United States is without authority to grant your request. The courts of the United States have held that if there is no specific authority of law derived from statutes or treaties to surrender a person to a foreign government in extradition proceedings, the exercise of such authority would be an act of usurped power. There is no authority of law under which the Government of the United States could deliver to the Government of Panama for surrender in extradition proceedings to a third government a fugitive from the justice of that government.

Accept [etc.] CHARLES E. HUGHES

211f.19/3

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, *July 7, 1923.*

SIR: I have the honor to acknowledge your note of June 25, 1923 [57] in further relation to the request made upon the Government of Panama by the Government of Chile for the extradition of two fugitives from the justice of Chile who embarked for Panama on the steamer arriving at the port of Cristobal May 23.

You refer to the provisions of Article XVI of the Treaty of November 18, 1903,[58] and you request that the United States enter into an agreement with Panama to carry out what you consider to be one of the purposes of these provisions, namely the cooperation of the authorities of the Canal Zone in the matter of the delivery to the Government of Panama for surrender to another government of fugitives from the justice of the latter government whose extradition may have been granted by the Panaman Government and who may be found in the Canal Zone.

The treaty provisions in question read as follows:

"The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands."

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[57] Not printed.

[58] *Foreign Relations*, 1904, p. 543.

In your note it is asserted that the words "without said zone" as first contained in the quoted treaty provisions refer to the world in general and were used for the purpose of facilitating the extradition of fugitives from the justice of foreign governments that the Government of Panama might grant.

The Government of the United States is unable to agree with your interpretation on this point, but is clearly of the opinion that the words in question relate to the territory of the Republic of Panama. It will be observed that the same words are used with reference to the delivery of fugitives from the justice of the Canal Zone and the United States would not consider requesting the Republic of Panama to apply to foreign governments for the surrender of persons who may have committed crimes within the Canal Zone.

Furthermore the extradition treaties of the United States uniformly contain mutual agreements to surrender persons accused of certain offenses committed "within the territory" of the other contracting party. In its practice of extradition the United States treats offenses as essentially local in their character and refuses to surrender fugitives unless it be shown that the crime was committed in the territory, actual or constructive, of the demanding government.

The Government of the United States is therefore of the opinion that the provisions of Article XVI of the Treaty of November 18, 1903 between the United States and Panama have been complied with by the agreement to which your note refers and which is set forth in a decree issued by the President of Panama September 22, 1906 [59] and in the Executive Order issued by the Governor of the Canal Zone September 19, 1906 [60] providing for the mutual extradition of fugitives from the justice of the Republic of Panama and of the Canal Zone. It would seem that the Republic of Panama must have shared the view that this agreement complied with the requirements of the treaty provisions in question at the time when the agreement was entered into and for a long period thereafter, because it is only at this late date that the question of a further agreement has been raised by your Government.

Referring to your apparent belief that fugitives from the justice of foreign governments, other than Panama, who may be found in the Canal Zone cannot now be surrendered to such foreign governments by the authorities of the United States, I beg to advise you that Article XII of the Panama Canal Act of 1912 [61] provides:

"That all laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they

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[59] See *Annual Report of the Isthmian Canal Commission for the year ending Dec. 1, 1906*, appendix 8, p. 75.

[60] *Ibid.*, appendix 9, p. 77.

[61] 37 Stat. 560.

may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone, and all laws relating to the rendition of fugitives from justice as between the several States and Territories of the United States, shall extend to and be considered in force in the Canal Zone, and for such purposes and such purposes only the Canal Zone shall be considered and treated as an organized Territory of the United States."

It will thus be seen that no difficulties need arise with respect to acting upon requests made upon the United States by foreign governments for the extradition of fugitives from the justice of such governments who may be found in the Canal Zone.

In conclusion I beg to remind you that by Article III of the Treaty of 1903 Panama grants to the United States all the rights, power and authority within the Canal Zone "which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Accept [etc.] CHARLES E. HUGHES

211f.19/9

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, *October 13, 1923.*

SIR: I have the honor to acknowledge the receipt of your note of September 6, 1923,[62] in further relation to the request made upon the Government of Panama by the Government of Chile, for the extradition of two fugitives from the justice of Chile who embarked for the port of Cristobal, Canal Zone, May 23. You continue your argument that the words "without said zone" as first contained in Article XVI of the treaty of November 18, 1903 refer to the world in general and were used for the purpose of facilitating the extradition of fugitives from the justice of foreign governments that the Government of Panama might grant.

It is true, as you state, that this article contemplates an agreement between the two governments for the delivery to Panama of persons who shall have offended without the Canal Zone and the delivery to the authorities of the United States of persons who shall have offended within the zone. However, this proposed agreement further contemplates, with respect to offenders within the zone, their "pursuit, capture, imprisonment, detention and delivery without said zone". In other words, assuming that your construction of the pro-

[62] Not printed.

visions of this article is correct, an agreement is contemplated whereby Panama shall pursue, capture, imprison, and detain wheresoever they may be throughout the world, persons charged with the commission of offenses within the Canal Zone. To state such a proposition would seem to be a sufficient answer to it.

Referring to your statement on this point, it may be said that there is, of course, no thought of "converting the Canal Zone into an independent colony capable of maintaining international relations with the outside world". Foreign governments seeking the extradition of fugitives from justice who have been found within the Canal Zone will necessarily apply to the Government of the United States for the extradition of such fugitives and their surrender will be granted, if at all, by the United States. Furthermore, the arrangement which has been made with Panama pursuant to the provisions of Article XVI of the treaty of 1903 was so made on the part of the United States by the President acting through the Governor of the Canal Zone and by virtue of authority invested in him by the Congress, and the executive order providing for such an arrangement was formally embodied in the laws of the United States, together with other executive orders relating to the Canal Zone by the Panama Canal Act of 1912.

With respect to your statement that the extradition treaties of the United States are not applicable to the Canal Zone "because the very text of Article 12 of the Panama Canal Act forbids it", I beg to say that this Article provides specifically that all treaties relating to extradition in force in the United States "to the extent that they may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone . . . shall extend to and be considered in force in the Canal Zone".

You further say that if the zone were an integral part of the territory of the United States there would have been no necessity for a special arrangement governing the extradition of fugitives between the zone and the Republic of Panama "but the treaty of extradition concluded by Panama and the United States . . . would have obtained". I beg to remind you, in this connection, that the arrangement contemplated by Article XVI of the treaty of 1903 and consummated in 1906 relates to the extradition of persons charged with the commission of "crimes, felonies or misdemeanors". The Extradition Treaty of 1904 [63] does not extend to persons charged with misdemeanors, and in view of the geographical situation of the Canal Zone with respect to the Republic of Panama and vice versa it is, of course, highly desirable that persons charged with the

[63] *Foreign Relations*, 1905, p. 713.

commission of misdemeanors should not be afforded an opportunity of seeking the easy refuge which would be theirs, were not an arrangement in effect for their delivery to the jurisdiction where their offenses were committed. Moreover, that geographical situation renders it desirable that delivery of fugitives from justice should be consummated without compliance with all of the formalities which are contemplated by the Extradition Treaty of 1904 and it was undoubtedly with these considerations in mind that the two governments provided in the treaty of 1903 for the making of a special agreement for extradition to and from the Canal Zone and the Republic of Panama.

You refer to the supposed identity of the provisions as to an extradition arrangement contained in Article XVI of the Treaty of 1903 between the United States and Panama and in Article XIII of the Hay-Herrán Treaty [64] signed between the United States and Colombia, and you state that in view of this and since the Hay-Herrán Treaty did not grant to the United States the jurisdictional powers in the Canal Zone granted by the Treaty of 1903 between the United States and Panama, but established a mixed jurisdiction with respect to criminal cases "it is obvious that the question [of extradition] was left to the political sovereignty of Panama in the same way as it had been previously left to the political sovereignty of Colombia."

Inasmuch as the proposed Hay-Herrán Treaty never came into force, a discussion of its provisions is purely academic. However, it may be pointed out that these respective provisions relative to extradition to which you refer are not identical as you suggest. The proposed Hay-Herrán Treaty provided for the making of an agreement generally, for "the pursuit, capture, imprisonment, detention and delivery within said zone of persons charged with the commitment of crimes, felonies or misdemeanors without said zone" and for the "pursuit, capture, imprisonment, detention and delivery without said zone of persons charged with the commitment of crimes, felonies, and misdemeanors within said zone." On the other hand, the treaty between the United States and Panama contains the additional and limiting provisions that "delivery" within the zone shall be made "to the authorities of the Republic of Panama" and without the zone "to the authorities of the United States."

However, I am of the opinion that even without these additional and limiting provisions, the words "without said zone", contained in the quoted provisions of Article XIII of the proposed Hay-Herrán Treaty, must be taken to refer to the territory of the Repub-

[64] See *Diplomatic History of the Panama Canal* (S. Doc. 474, 63d Cong., 2d sess.), p. 277.

lic of Colombia outside of the Canal Zone, and in this connection I would point out that it would be most extraordinary for the United States and Colombia to agree to make an arrangement regarding the pursuit, capture, detention, imprisonment and delivery throughout the world generally of fugitive criminals.

I have noted the proposal of your Government that in the event that it is found impossible to reach an agreement as to the interpretation of Article XVI of the Canal treaty in the matter under discussion, the difference of interpretation be referred to arbitration. This Government is generally not indisposed to refer to arbitration legal questions arising from divergent interpretations of a treaty to which it is a party. In the present case, however, the question which you propose to arbitrate is one attacking the exercise of sovereign rights by the United States explicitly granted under Article III of the Treaty of 1903 with Panama. It would be quite impossible for the United States to consent to arbitrate a question of that sort.

Accept [etc.] CHARLES E. HUGHES

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 328 ff.)

PERSIA

GRANT OF AN OIL CONCESSION IN NORTHERN PERSIA TO THE SINCLAIR EXPLORATION COMPANY, SUBJECT TO CONFIRMATION BY THE PERSIAN MEJLISS

891.51/295

Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

[Extract]

[WASHINGTON,] *March 26, 1923.*

Supplementing my memorandum of March 13th [1] regarding the North Persian oil concession and the Persian loan matter, I have had recent talks with Mr. Shuster [2] (March 20) and Mr. Wellman [3] (March 21) . . .

Mr. Shuster informed me that his negotiations for a loan to be taken by Morgan and Company in case the North Persian oil concession was given to the Standard Oil Company were progressing satisfactorily. He intimated that, while the Morgan firm themselves did not have a particular interest in this as a business proposition, they were willing to oblige their important client, the Standard Oil Company, and would probably take a five million dollar loan to be issued at about 96 bearing 7 per cent, this loan to be secured by the Anglo-Persian Oil Royalties. The Morgan firm desired, however, to place the balance of the ten million dollar loan desired by the Persian Government in London. Mr. Shuster said that Mr. Lamont [4] had frankly explained to him the reason for this, namely, that the British Government had a settled and firm policy in Persia and were in a position to give their interests adequate support, whereas the American Government had never had a very definite policy in Persia, had relatively small interests in that country and that any policy which might be adopted would be influenced by changing administrations. Mr. Shuster intimated that he appreciated the force of Mr. Lamont's views, and I gathered that he did not object to British participation in the loan.

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[1] Not printed.

[2] Morgan Shuster, fiscal agent in the United States for the Persian Government.

[3] Guy Wellman, of the Standard Oil Co. of New Jersey.

[4] T. W. Lamont, of J. P. Morgan & Co.

In this connection, I remarked to Mr. Shuster that he undoubtedly appreciated the Department's attitude of absolute impartiality between the two competing companies, which applied to the question of the loan as well as to that of the oil concession; adding that I felt there was one point to be thoroughly safeguarded, namely, if the Persian Government desired a loan from Morgan and Company and that loan were partially placed in England, the Persians should be fully informed in this regard and not be led into a deal which they might consider to be wholly American and then find that they had unwillingly [*unwittingly?*] been facilitating the floating of a Persian loan in England. I added that if the Persians desired to take an English loan they of course had full liberty to do so.

. . . . . .

The next day (March 21st) I had a short talk with Mr. Wellman. He substantially confirmed Mr. Shuster's remarks about the satisfactory progress of the loan negotiation with the Morgan Company and also reiterated the desire of the Morgan Group to divide their loan between England and the United States. I remarked to Mr. Wellman that in my personal opinion it was important to deal with the utmost frankness with the Persians in this matter so that in case that Government should decide to ask Morgan and Company for a loan and if British capital were to participate in the loan, the Persian Government should fully understand this and not be led into making an offer in the belief that an American bank and American capital was solely interested.

A[LLEN] W. D[ULLES]

891.6363 Standard Oil/276 : Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

[Paraphrase]

WASHINGTON, *March 30, 1923—11 a.m.*

7. Advices from Sinclair Company that they are informed that Millspaugh, Administrator of Persian Finances, is urging upon Persian Prime Minister the concession of North Persian oils to Standard. View of Sinclair is that such advocacy may be taken by Persians as expression of policy of United States Government, and they ask that intimations be sent to the Government of Persia that the attitude which the Administrator General may take in respect to concessions is not to be regarded as indicating the position of the Department.

Sinclair Company have been told that Department has received no corroboration of statements regarding position of Millspaugh. They have been further informed that when Millspaugh took service in Persia he dissociated himself completely from this Department, and

that he has now no official status in the United States. Since this fact was plainly indicated in note of June 22 from the Department to the Persian Minister,[6] no misunderstanding now seems possible.

If you should judge, nevertheless, that there may be some misapprehension on this point, advise Department by telegram and the matter will be fully explained to the Persian Minister in Washington. The complete impartiality of the Department in this affair should be observed and should not be in doubt.

HUGHES

891.6363 Standard Oil/293

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, *June 27, 1923.*
[Received August 30.]

I have the honor to enclose herewith a complete text of the bill which passed the Persian Medjliss on June 14th [*13th*] [6] whereby the Government is empowered to offer the North Persian oil concession to an American company conditional upon the latter's arranging for a $10,000,000 loan to the Persian Government. The project was approved with 50 affirmative votes out of a total of 68 in spite of the most vigorous efforts on the part of British interests locally to delay its passage. Undoubtedly, as it stands, it will prove inacceptable to American companies of whom only two (the Standard Oil Company and the Sinclair Exploration Company) are serious competitors. This was the contention of Dr. A. C. Millspaugh, the Financial Adviser, who urged, without success, the rejection of the measure by the Persian Medjliss. Under normal circumstances, one might be in accord with his desire to have the completed bill in as reasonable and acceptable a form as possible before allowing its submission to American bidders, but in view of the fact that the term of the Medjliss was to expire within a few days and that there was obviously no time to arrange even for the least radical of amendments much less for the complete redrafting of the measure in question, his opposition is not easily explained. It should be borne in mind that the preliminary negotiations required to secure the submission of the bill extended over a period of one and half years. Its rejection meant the entire abandonment of the project until the convening of the next Medjliss. There was a gap of four years between the present parliament and its predecessor, and with conditions as they are at present, there is no absolute certainty that a similar period may not elapse before a new Medjliss is convened.

. . . . . .

[6] Not printed.

Article XIV: This is the most significant clause in the project and one which well illustrates the spirit which pervaded the Medjliss and Persian public opinion in general: according to this, the concessionaire can under no circumstances assign or transfer his rights to any foreign Government or to one or more foreign citizens. This, of course, is meant to definitely and finally exclude British participation and if, as is understood in some quarters, the Standard Oil Company is committed to an understanding with the Anglo-Persian Oil interests, it will be difficult for it to consistently accept a project containing this reservation. Note however that the Sinclair project contains a similar restriction upon the transfer of any interests to foreign companies. The importance which is attached to Article XIV may be gauged by the wording of Article XXXI which authorizes the Government to "change the wording and phrasing of this contract in so far as clearness and legal effectiveness may require—with the exception of the provisions of Article XIV". The Government is evidently determined to take no chances in this connection. This article also specifies that the Persian Government or Persian subjects shall have the right to purchase 30% of the entire capital necessary for the operation of the concession.

. . . . . .

While Article XIV preventing British participation in the project served as a tangible expression of the prevailing anti-British spirit in Persia, nevertheless, it is also, in my opinion, the official recognition of a generally accepted political fact: namely that the final decision as to what interests may exploit the Caspian oil fields lies with the Russians, who are firmly opposed to British capital entering the Russian sphere of influence either directly or indirectly. The successful concessionaire will have to come to terms with the Bolsheviks before he can sink a well or export a barrel of oil. Even could he start actual exploitation of the provinces, nevertheless in the face of Russian opposition he would be absolutely helpless when it [*he*] came to market his product abroad. The sole practicable outlet for the production of the Caspian fields is by way of the Caucasus (the Persian consumption is but a drop in the bucket) and if the Russians placed their veto on the construction of a pipe line to the Black Sea operations would have to be suspended since, aside from the tremendous natural difficulties which would be incurred in piping the oil southwards, it would be impracticable because in direct contravention of the D'Arcy concession and the present project (Article 21). It is already definitely known that the Sinclair Company has come to an agreement in this regard, with the Bolsheviks; the local Sinclair representative anticipates no trouble in this connection should his Company secure the concession.

The Standard, however, appears to be differently situated. So far as is known, it has made no attempt to come to terms with the Bolsheviks and if, as commonly reported, it is associated with the Anglo-Persian, it probably could not obtain the assent of the Bolsheviks to its starting active operations, even did it succeed in obtaining the concession.

It would be most gratifying if the two American companies could combine on this project, but if the Standard is already committed as reported there is not a very favorable prospect of this happening.

In conclusion I may mention the terms of Article I as of special interest, particularly in the restriction of the oil concession territory to four out of the five Caspian provinces mentioned. This was in anticipation of a subsequent bit of legislation by the Medjliss, granting the Government the right to offer the excepted province, for exploitation, to a reputable Persian company . . .

Respectfully submitted

BERNARD GOTLIEB

891.6363 Standard Oil/294

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, *June 29, 1923.*
[Received August 30.]

The Persian Medjliss in its session of June 20th passed the following bill:

"ARTICLE I. The national consultative assembly authorizes the Government to grant a reputable company of Persian subjects the exclusive concession to prospect and exploit the petroleum, natural gas, asphalt and mineral wax of one of the two provinces, Guilan or Mazanderan, in addition to Tonekabon.

ARTICLE II. The terms of this concession should not be less favorable to the government than those of the law of the petroleum concession passed by the Medjliss on June 13, 1923. (Jowza 23, 1302).

ARTICLE III. The said concession should be approved by the national consultative assembly."

I respectfully refer in this connection to my report of June 27 ("Project for grant of North Persian Oil concession to American company passed by Persian Medjliss") and specifically to Article I of the draft concession enclosed therein [8] reading as follows:

"The Parliament of Persia approves the granting of a concession . . . for Khorassan, Azerbaijan and two of the three Northern provinces bordering the Caspian Sea, Guilan, Mazanderan and Astarabad."

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[8] Draft concession not printed.

One of the two most promising provinces, Guilan and Mazanderan is consequently to be reserved for exploitation by Persian brains and capital, in addition to Tonekabon, which is not held to be of great importance.

. . . . . .

Respectfully submitted

BERNARD GOTLIEB

891.6363 Standard Oil/301

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, *October 21, 1923.*

[Received December 13.]

Almost two months and a half have elapsed since the Persian Parliament passed the draft concession of the North Persian oil project whereby the Persian Government was empowered to present same to American companies, but no definite decision has thus far been arrived at.

There was little doubt but that the draft as presented would have to undergo considerable modification before it could be accepted by either of the two American companies interested, the Standard Oil and the Sinclair Exploration Company.

The Sinclair has chosen to pursue negotiations direct with the Persian Government, through Mr. R. Soper, its Persian representative, who informs me that he presented to the Persian Council of Ministers, his Company's counter-proposal in French several weeks ago and was assured that it would be immediately passed upon by the Government.

The conditions of the Government were placed before the Standard Oil Company by the Persian Minister at Washington and it is understood that the Company found the Government proposals unacceptable and presented a counter-proposal which was unsatisfactory.

. . . . . .

. . . There appears to be a strong undercurrent in favor of obliging the American financial mission to administer Persian affairs on the basis of Persian revenues solely, and without recourse to foreign aid. It must be confessed that the partisans of this view have a strong case, as the revenues of Persia, if properly collected and administered would undoubtedly be sufficient to run the country. No further loans are, in their opinion, justified unless they are expressly devoted to productive purposes.

Respectfully submitted

BERNARD GOTLIEB

891.6363 Standard Oil/304

The Secretary of State to President Coolidge

WASHINGTON, *November 8, 1923.*

MY DEAR MR. PRESIDENT: It has recently been brought to my attention that the Sinclair Oil Company has felt a certain dissatisfaction at what they consider their failure to receive proper support from this Department, particularly in connection with their effort to secure an oil concession in North Persia. In a letter I wrote to Mr. Harding under date of October 28, 1922, of which I attach a copy,[9] I gave some of the details of the competition which had arisen in North Persia between the Sinclair and Standard Oil Companies, a matter which Mr. Archibald Roosevelt, of the former company, had laid before the President. In order that you may be fully advised I should be glad if you could find it possible to glance through that letter.

This Department's attitude of impartiality as between the competing American companies, which I emphasized in that letter, has been scrupulously followed and I am now informing the Sinclair Oil Company that while I have no reason to believe that the Persian Government is in doubt on this point I am quite prepared to reemphasize this position through our Legation at Teheran and also to indicate that it is the Government's policy to give appropriate diplomatic support to American interests abroad.

This general question raises a point which I feel to be of sufficient importance to bring to your attention; namely, the proper attitude of this Government toward American commercial enterprise abroad. From time to time there has been some dissatisfaction expressed in business circles because this Department's attitude towards American business interests in the foreign field differs somewhat from the attitude in similar matters of the British, French and other European governments. The latter are not loath to interfere politically in support of the business interests of their nationals to a degree which is not followed by this Department. Our position is that we are always ready to give appropriate support to our nationals in seeking opportunities for business enterprise abroad, but we do not undertake to make the government a party to the business negotiations or use political pressure for the benefit of private interests in order to obtain particular concessions, or intervene in favor of one American interest as against another. We are persistent in our efforts to maintain the open door policy, or equality of commercial opportunity, but we do not attempt to assume obligations for the government, expressed or implied, which under our system we could not undertake to discharge.

[9] Not printed.

American companies which might prefer a policy of more direct interference on their behalf by the government are inclined, in my opinion, to overlook the fact that American prestige and reputation for fairness has been enhanced, and consequently business opportunities of our nationals have been increased, by the correct policy which this government has followed. I find that in many parts of the world American business is welcomed largely because foreign countries realize that they can deal with American interests on a business basis without fearing political complications.

It is hardly necessary to point out that the other course desired by some business men, intent on their own immediate interests, would not only be contrary to our traditions and foreign policy, but if persistently followed would involve us in political intrigues and in difficulties which other governments with different exigencies and aims find it impossible to escape and from which we have happily been free.

While I do not feel that the question presented by the informal representations on the part of the Sinclair Company calls for any other action than I have indicated above, I desire briefly to summarize our attitude should the matter otherwise be brought to your attention.

I am [etc.] CHARLES E. HUGHES

891.6363 Standard Oil/304 : Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

WASHINGTON, *November 8, 1923—5 p.m.*

29. Representatives of the Sinclair Oil Company have recently indicated to the Department their view that the impression prevailed in Persian governmental circles that the Department was not prepared to give its support to that Company should it secure a valid concession in Persia. Department has consistently pointed out that this government had no preference as between the competing American companies. (See for example Department's telegram of August 29, 1922,[10] which stated that the Department would not hesitate to give its support to either of the American companies without discrimination or partiality upon an appropriate determination that the company possessed valid rights in Persia.) The Department does not therefore understand how Persian Government could be under any misapprehension in this matter and doubts whether Sinclair has been correctly informed.

In view of the fact, however, that the Persian Medjliss has passed a bill which contains the provision that the North Persian Petroleum

[10] Not printed.

Concession shall be given to an independent and reputable American company, since there has been a recent cabinet change in Persia and since, furthermore, in view of the late election, a new Medjliss may shortly bring up oil question for further consideration, the Department desires you to take an early occasion to make entirely clear to the Persian Government the following points: (1) that this Government has no choice as between the competing American companies; (2) that it is prepared to support the legitimate interests of any reputable American company which is duly given a legal and valid concession in Persia; (3) that in furthering the principle of the Open Door and equality of opportunity it is the Department's general policy to extend all proper diplomatic support to the American interests which may avail themselves of the opportunities thereby presented.

HUGHES

891.6363 Standard Oil/304

The Secretary of State to the Persian Minister (Alai)

WASHINGTON, *November 9, 1923.*

SIR: It is my understanding that the Persian Medjliss has passed a bill which contains the provision that the North Persian Petroleum Concession shall be given to an independent and reputable American company, that there has been a recent Cabinet change in Persia, and that, in view of the late elections, a new Medjliss may shortly bring up the question of the North Persian Concession for further consideration. Desiring therefore that the attitude of this Government in this matter should be entirely clear, particularly in view of the competition in North Persia between the two American companies, this Department has recently instructed the American Minister at Teheran to inform the Persian Government:

(1) That this Government has no choice as between the competing American companies;

(2) That it is prepared to support the legitimate interests of any reputable American company which is duly given a legal and valid concession in Persia;

(3) That in furthering the principle of the Open Door and equality of opportunity it is the Department's general policy to extend all proper diplomatic support to the American interests which may avail themselves of the opportunities thereby presented.

In bringing this information to your attention I take this opportunity to renew the assurances of my highest consideration.

CHARLES E. HUGHES

891.6363 Standard Oil/310

The Persian Minister (Alai) to the Secretary of State

No. 2014 WASHINGTON, *November 21, 1923.*

SIR: I have the honour to acknowledge, with thanks, receipt of your Excellency's note, dated November 9th, in which you were good enough to inform me of the attitude of the United States Government in the matter of the oil concession which the Persian Government are desirous of granting to an independent and reputable American company.

I have reason to believe that no misapprehension exists in Teheran as to the attitude of impartiality consistently adopted by the Department towards the two competing companies, nor is there, to my knowledge, any change in the policy of the Persian Government regarding the bill passed by the Madjless and the determination to secure the cooperation of those American concerns which are best calculated to promote the interests of Persia in her economic and industrial development.

Accept [etc.] HUSSEIN ALAI

891.6363 Standard Oil/318½ : Telegram

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, *December 20, 1923—6 p. m.*

[Received December 20—4:28 p.m.]

This afternoon I officially witnessed signing of north Persian oil concession by Reza Khan, Prime Minister, and R. Soper representing Sinclair Exploration Company. I shall send text as soon as possible.

GOTLIEB

891.6363 Standard Oil/327

The Minister in Persia (Kornfeld) to the Secretary of State

No. 343 TEHERAN, *January 5, 1924.*

[Received February 16.]

SIR: Referring to the Legation's despatch No. 336 of December 29, 1923,[11] I have the honor to transmit herewith translation of the contract awarding the northern oil concession to the Sinclair Exploration Company.

I have [etc.] JOSEPH S. KORNFELD

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[11] Not printed.

[Enclosure—Translation]

Contract Granting an Oil Concession to the Sinclair Exploration Company

The Persian Government, in accordance with the powers conferred on it by the Law of the 23 Djauza, 1302, authorizing it to grant a Concession for the Northern Petroleum to an American company, and whereas, the Sinclair Exploration Company fulfills the conditions stipulated by the Medjliss, has concluded and signs the present contract, subject to the ratification of the Medjliss, with the said Company, duly represented by its authorized attorney, Mr. Ralph H. Soper.

CONTRACT OF CONCESSION FOR PETROLEUM, NATURAL GAS, ASPHALT, BITUMEN, OZOKERITE, AND ALL OTHER SIMILAR HYDRO-CARBONS

The Undersigned,

His Highness, Reza Khan, Sardar Sepah, President of the Council of Ministers, for and on behalf of the Imperial Government of Persia, hereinafter referred to as the "Government"

of the first part,

and

Ralph H. Soper, for and on behalf of the Sinclair Exploration Company, a corporation duly incorporated under the laws of the State of Delaware, United States of America, whose principal business office is at 45, Nassau Street, New York City, hereinafter referred to as the "Concessionnaire", which term shall include its successors and assigns, whether in whole or in part

of the second part,

hereby agree and covenant as follows:

ARTICLE I

The Government hereby grants to the Concessionnaire, by the present contract, the special and exclusive right to explore, prospect, drill for, extract, produce, obtain, exploit, and refine petroleum, natural gas, asphalt, bitumen, ozokerite and all other similar hydrocarbonous substances throughout that portion of the Persian Empire comprised within the Provinces of Azerbaidjan (including the Vilayet of Ardebil), Khorassan, Astarabad, and Mazanderan (including Tonekaboun), hereinafter referred to as the "Four Provinces". The Concessionnaire is also granted the nonmonopolistic right to refine, prepare for commerce, transport, buy, sell, export or import petroleum, natural gas, asphalt, bitumen, ozokerite and all other similar hydro-carbons and their sub-products or derivatives throughout

the Empire of Persia, as well as outside its boundaries, under the terms and conditions of the present contract.

ARTICLE II

The term of this concession shall be fifty (50) years. The concession will be considered as formally and legally granted on the date when it shall have been approved by the Medjliss, and its term shall begin to count from that date.

ARTICLE III

The Concessionnaire agrees that within six (6) months from the date when this concession shall have been approved by the Medjliss he will send his experts to make the necessary geological researches and examinations of the surface of the land in the Four Provinces.

ARTICLE IV

Within three (3) years of the date when the concession shall have been approved by the Medjliss, the Concessionnaire shall have made the necessary reports and maps relative to his preliminary researches referred to in Article III and shall communicate them to the Government.

ARTICLE V

After the completion of the aforesaid maps and reports, and provided that the concession still remains in force, the Concessionnaire shall continue, through means of his experts, his exploration work in order to ascertain whether or not there exists within the "Four Provinces", petroleum, natural gas, asphalt, bitumen, ozokerite or other similar hydro-carbonous substances, in commercial quantities.

The Government agrees on its side, except in case of *force majeure*, to give strong assistance to the Concessionnaire in the operations necessary to the execution of his concession. Furthermore, the Government agrees to protect the personnel and property of the Concessionnaire against any and all aggression and, in general, the Government agrees to guarantee to the Concessionnaire the full enjoyment of his rights and privileges, as well as to protect him against any and all third parties who may attempt to interfere in the exercise of the rights and privileges granted by the present contract.

ARTICLE VI

Within eight (8) years from the date when this concession shall have been approved by the Medjliss, the Concessionnaire agrees to

spend or to cause to be spent upon or in providing equipment, labor, personnel, materials of all sorts, facilities for topographical and geological surveys, production, drilling, exploitation, refining, transport, marketing, etc., and in general on expenses of any kind made directly or indirectly in connection with the operation of the present concession, a sum total equivalent to at least $800,000 gold. The expenditure of this sum shall be made in such a manner that a minimum of $300,000 shall be expended within three years from the date when the concession is approved by the Medjliss, a minimum of $600,000 gold expended within six years from that date, and the remainder of the $800,000 within the period of eight years referred to above.

However, in order to avoid unnecessary expenditures, it is understood and agreed that in the event that the Concessionnaire fulfills his obligations under this contract within the times stipulated herein without having spent the full amounts specified above, the Government will not insist that the Concessionnaire spend larger sums than the amounts actually necessary to carry out his obligations.

Article VII

Within eight (8) years after the date of approval of this concession by the Medjliss the Concessionnaire shall remit to the Ministry of Public Works in Teheran the list of the lands that he will have selected for exploitation. These lands which will hereafter be designated "Selected Lands" may be selected by the Concessionnaire from time to time, or at any time during the entire eight year period mentioned above. Each time that such a selection is made the Concessionnaire shall present to the Ministry of Public Works in Teheran a map or maps upon which the lands in question shall be indicated in color, and upon such presentation the lands selected shall *ipso facto* become part and parcel of the "Selected Lands" placed by the Government at the disposition of the Concessionnaire on the condition that they shall be used exclusively for the purposes and under the conditions of this contract.

The "Selected Lands" may be chosen without limitation on the part of the Government as to the size and shape or the location of each parcel, and may be blocked out by such simple and practical processes as the Concessionnaire shall judge necessary for their complete identification, subject only to the condition that the total area of "Selected Lands" in each of the Four Provinces shall not exceed fifteen (15) per cent of the total area of that province. The remainder of the lands shall be returned to the Government, and the Concessionnaire shall have no right thereafter to make any claims relative to the production of petroleum or any of the other products

provided in this contract on such returned lands, and the Government shall have the right to resume exploration work on such lands or to cede them to other persons or to other companies for the purposes of exploitation.

ARTICLE VIII

The Concessionnaire, within six (6) years of the date of the approval of this concession by the Medjliss, shall commence the drilling of at least two wells, and thereafter, until the expiration of the concession, shall continue his operations and shall commence the drilling of one well every two years. The drilling of the wells and the operations relating thereto shall be prosecuted with reasonable diligence, and the wells shall be drilled to a depth of at least 2000 feet unless oil is encountered in commercial quantities at a shallower depth. The Concessionnaire shall furnish the Government every six months with a report covering all the work relative to the drilling of wells, including their dimensions and their production, as well as the necessary maps showing the location of all wells whether projected or drilling.

ARTICLE IX

If, after the first three (3) years of exploration work, the experts of the Concessionnaire conclude that oil does not occur in sufficient commercial quantities in the Four Provinces to justify him in continuing his operations, the Concessionnaire may surrender this concession by notifying the Ministry of Public Works in Teheran in writing to this effect. In such case and counting from the date of such notification, the concession will be returned to the State, and the Concessionnaire shall have no right to any claims or indemnities whatever, and all terms, rights, privileges, and obligations which exist in virtue of the present contract shall become null and void.

Moreover, it is further agreed that in the case of surrender of this concession under the conditions mentioned above, the Concessionnaire will have no right to continue his operations for the production of petroleum within the boundaries of the Four Provinces.

ARTICLE X

This concession may never be assigned to any foreign Government or foreign company, nor to one or more subjects of any foreign Government and, furthermore, may not be assigned or transferred in any form or manner, except as follows:

The Government authorizes the Concessionnaire to organize one or more companies or subsidiaries thereof under the laws of Persia or of some state or territory of the United States of America, (it being

understood that the Concessionnaire will notify the Ministry of Public Works in Teheran in advance as to the formation of any such company, and as to the country under whose laws it shall be formed), and to assign or transfer all or part of his rights under this concession to such company or companies or subsidiaries thereof, provided, however, that the Concessionnaire shall hold and exercise for the duration of this concession the management and control of such company or companies, and that all positions requiring managerial or executive functions in Persia shall be confided to American citizens or to Persian subjects under penalty of forfeiture of this concession for failure so to do; and provided further, that the Concessionnaire, under penalty of forfeiture of this concession for failure so to do, shall hold and own absolutely for the duration of this concession all the capital-stock of the company or companies mentioned above or subsidiaries thereof, except that the Persian Government and Persian subjects shall have the right to purchase up to thirty (30) per cent of the entire capital stock subscribed for the exploitation of the concession. Consequently, upon the issue of any capital shares in the above mentioned company or companies or subsidiaries thereof, the Government and Persian subjects shall have the right during one year counting from the date on which notice is given by the Concessionnaire to the Ministry of Public Works in Teheran in regard to this subject to purchase up to thirty (30) per cent of such shares at par value. However, any shares of stock in such company or companies which may be purchased by the Persian Government or Persian subjects shall contain a provision to the effect that they cannot be sold or transferred except to the Persian Government or to Persian subjects or to the Concessionnaire in the order of preference stated.

Any assignment made to any company or companies or subsidiaries thereof, under the terms of this article, shall be registered in the Ministry of Public Works in Teheran.

Any acts performed under this concession by any company or companies or subsidiaries thereof, to which the Concessionnaire shall have assigned this concession in whole or in part, shall be deemed *pro tanto* performance by the Concessionnaire.

Article XI

In order to furnish gasoline and kerosene to the inhabitants of Persia at a moderate price, the Concessionnaire agrees to refine in Persia from the oil he produces in Persia a sufficient supply of the above mentioned products to satisfy the requirements of their consumption as shown by contracts to purchase, provided that oil suitable for the manufacture of gasoline and kerosene is found within

the Four Provinces. The Concessionnaire will fulfill the above obligation under the following conditions:

(1) The Government and residents of Persia will have the right to purchase from the Concessionnaire at the refinery or at the depots which the Concession may establish, kerosene, gasoline, fuel oil, crude petroleum and other crude petroleum products, provided such are obtained in the Four Provinces in commercial quantities, destined exclusively for the internal consumption of the country, but not for export or for re-sale. The purchase price of such products will be the actual cost price plus ten (10) per cent. The actual cost price of each barrel of petroleum will be calculated by the Concessionnaire and shall take into account the following factors:

A) The cost of crude petroleum, cost of refining, cost of transportation and marketing in Persia, etc., including such items as labor, fuel, manufacturing, insurance, repairs, maintenance, equipment, and the cost of all necessary supplies, etc.

B) The management, office, accounting and superintendence expenses of the enterprise in Persia and all other charges of an administrative character.

C) Depreciation on the capital invested at any time in lands, materials, and all plants and facilities used in the production, refining, transportation, and marketing of the petroleum produced under the concession and the products thereof, and in general on all things subject to depreciation. The depreciation shall be calculated according to the accounts of the Concessionnaire at the rate of seven and one half (7½) per cent per year on the capital invested as indicated above, and shall continue until such depreciation aggregates 100% of such capital investment.

D) Interest on the total amount of capital invested at the rate of seven (7) per cent per annum until the capital invested has been completely amortized.

(2) The price fixed by the Concessionnaire in accordance with the terms of the present Article for the products destined for the internal consumption of Persia shall not exceed the price at which the Concessionnaire sells during the same period similar products produced under this concession in the world's markets, less deductions for the cost of handling from the point of exportation in Persia to the point of sale.

Remarks:

(1) The expression "internal consumption" means the amount of gasoline, kerosene, fuel oil, petroleum and other crude petroleum products, that the Government, individuals, corporations, societies, companies and other organizations consume in Persia, and in general it means the amount of the above mentioned products necessary for

satisfying the needs of the people of Persia, it being understood that the term shall not include petroleum products destined for export or re-sale by either the Persian Government or private individuals.

(2) The word "barrel" means 42 American gallons at a temperature of 60 degrees Fahrenheit.

Article XII

The royalty due to the Persian Government under this contract shall be at least twenty (20) per cent of the net profits of each of the companies, or of their subsidiaries, formed under the terms of Article X for the various operations of this concession, whether such companies are formed for the production, transportation, refining or sale of its products, and whether they are formed within or outside the boundaries of Persia.

The company or companies or subsidiaries thereof so organized shall within the first six months of each year pay to the Government a sum which shall be not less than twenty (20) per cent of the net profits of the previous year derived from the working of the present concession as shown by the balance sheet of the company or subsidiary in question.

In order that the Government may share in the excess profits which may be derived from the operation of this concession, the percentage of the net profits which the Government receives shall be progressive according to the following schedule:

When the Excess Profits are	*The Government shall receive*
Less than 60% of the Invested Capital	20% of the net profits
Between 60% and 75% " "	21% " " " "
" 75% " 80% " "	22% " " " "
" 85% " 95% " "	23% " " " "
" 95% " 105% " "	24% " " " "
" 105% " 115% " "	26% " " " "
More than 115% of the " "	28% " " " "

Paragraph 1.

For the purposes of this contract, the Net Profits in any year is the gross revenue less deductions for all operating expenses among which, (it being provided that these expenditures shall be reasonable, and that they shall be made in good faith and not with the object of concealing the real profits, but with the object of successfully developing the enterprise, and that the Government shall have the right to examine the books and verify the accounts of the companies or subsidiaries thereof), are included labor, fuel, cost of materials, cost of administration, loans, supplies used, repaired or consumed in operations and all general expenses and other moneys expended or

disbursed not properly chargeable to invested capital, with the following exceptions:

1. Payments to the Persian Government due under this contract.
2. Dividend payments.
3. Taxes paid to the federal Government, states, or municipalities of the United States of America if the company is organized in the United States.

There will also be deducted from the gross revenue before arriving at Net Profits:

1. All interest and/or dividends received by the company or companies or subsidiaries thereof, it being understood that before any payment of dividends by any company, the Persian Government will have received its part of the Net Profits as stipulated above.
2. All losses sustained during the year and not compensated for by insurance or otherwise and all debts ascertained to be worthless and charged off on the books of the company or companies or subsidiaries thereof within the year.
3. Depreciation at the rate of seven and one half (7½%) per cent per annum on sums charged to invested capital which have been invested in materials, equipment or properties of any kind subject to depreciation, such deduction to continue only until the aggregate of such deductions equals the total of such charges. If in any year before such deductions the Net Profits are insufficient to provide for depreciation, then the depreciation not covered shall be carried forward from year to year until completely provided for.

Paragraph 2.

For the purposes of this contract, Invested Capital means the total capital invested by the company or companies or subsidiaries thereof, as determined at the end of each year, whether derived from money paid in for capital stock, money borrowed or profits retained and invested in the enterprise; Invested Capital to be reduced by the amount of depreciation charged off each year in accordance with the provisions of Paragraph 1.

Paragraph 3.

For the purposes of this contract, the Excess Profits are defined as that portion of the net profits remaining after the Invested Capital has received twelve and one half (12½) per cent, per annum, cumulative.

ARTICLE XIII

The Concessionnaire agrees that upon the organization of the first company formed in accordance with the terms of Article X of this contract, he will deliver gratuitously to the Government a quantity

or percentage of the shares of that company, whose value shall be equivalent to thirty thousand pounds sterling (£30,000). But it is understood and agreed that this obligation applies only to the first company to be organized. Nevertheless, if the Persian Government desires thereafter to exchange its part of the shares in the first company mentioned above for a number of shares in a company formed at some later date and likewise equivalent in value to £30,000, it shall have the right to do so without any other conditions whatever.

Article XIV

The Government, in the name of the State and the Persian shareholders, with respect to the Board of Directors of each of the companies or subsidiaries thereof, formed under the terms of Article X of the present contract, shall have one-fifth of the Directors and the Concessionnaire shall have four-fifths. It is understood that this right shall hold regardless of whether or not the Government and/or Persian subjects have effectively purchased the full quota of shares reserved to them; furthermore, in the General Stockholders meetings, the Government and the Persian stockholders shall have the right to be present and consequently to vote according to the number of shares which they actually possess.

Article XV

The State gratuitously puts at the disposition of the Concessionnaire all of the uncultivated lands which it possesses and which the engineers of the Concessionnaire may judge necessary for any and all of his operations of whatever nature they may be under this contract, provided, that the land in question has not up to that time been reserved for the installation of Governmental constructions.

In regard to the cultivated lands belonging to the State, the Concessionnaire shall have the right to acquire or rent such lands at the current price of the district.

The Concessionnaire shall also have the right to acquire or rent, for the duration of this concession, all other lands and buildings belonging to private individuals or otherwise, at a price which shall be mutually satisfactory to the owner and the Concessionnaire. In case of disagreement between the owner of the land and the Concessionnaire, the Government will not permit the land owner to require a price which exceeds the current price of the land in the district.

Mosques, cemeteries, holy shrines and other sacred places and their surrounding[s] to a distance of 250 meters, are excluded from the terms of this concession, provided that on these lands no other person

shall ever have the right to produce or to exploit petroleum or any other of the substances mentioned in this contract.

In regard to lands belonging to pious foundations (vakfs) the State will use its good offices, provided circumstances permit, to the end that such lands shall be rented to the Concessionnaire.

On his side, the Concessionnaire agrees that those Persian subjects who are actually obtaining oil from small wells or seepages at the time of the approval of this concession by the Medjliss shall have the right in the future to extract from the same small wells and seepages a quantity of oil equal to that obtained at the date mentioned above, but the Government undertakes to protect the Concessionnaire, in case of dispute, against all claims on the part of the said Persian subjects to a larger quantity of oil than that obtained on the date of this concession.

Article XVI

All land granted by this concession to the Concessionnaire or which shall be acquired by the Concessionnaire, and all property of the Concessionnaire, such as his constructions, materials, equipment, machinery, pipe-lines, etc., and all other things used or held for use under this contract, as well as all products produced thereunder, crude or refined, and exported or held for export, or sold or held for sale in the country, shall throughout the duration of this concession be free of all customs duties, imposts, taxes and all other charges, including taxes on land and immovable property, mining and water taxes, capital and income taxes, taxes and duties on imports and exports, and all other taxes and imposts of whatever nature they may be, which are now in effect, or which may hereafter be established in Persia by the State or by any other authority whether Provincial, County, Municipal, Local or otherwise, and whether such taxes be of a temporary or permanent nature, with the sole exception provided in Remark "A" of Article XVII.

Furthermore, it is expressly provided that the Concessionnaire shall have the right to freely import in Persia, exempt from all customs duties, imposts, taxes, and all other charges, all materials necessary for initial construction, all supplies, equipment, machinery, foodstuffs, clothing, and all other materials destined for use in connection with the operation of this concession, or which the Concessionnaire elects to send to Persia for the production, transport, manufacture, distribution, and sale of the products or their derivatives covered by this Concession.

However, the personal effects, including articles of subsistence, acquired directly and for their private consumption, by the personnel of any of the companies or subsidiaries thereof, and not expressly mentioned above, shall not be included in this exemption.

The exemption from duties of importation and exportation in this article does not exempt the company or companies or subsidiaries thereof, or their personnel, from the legal formalities such as customs declaration, examination and verification, to which importation and exportation are subject in Persia.

Article XVII

The Concessionnaire shall have the right for the duration of the concession to construct, exploit, and maintain any pipe-line systems which his experts may judge to be necessary for the transportation of one or all of the products and their derivatives mentioned in Article I, and he shall have the further right to transport by means of his pipe-lines, free of all taxes and other charges, any and all of the products referred to above which have been obtained in Persia. Such pipe-lines may be constructed between any points within the boundaries of Persia, provided that their construction does not violate the rights already granted to other parties by the Petroleum Concession dated March 28, 1901.

Furthermore, the Concessionnaire has the right for the duration of the concession to construct, exploit and maintain any kind of wells, reservoirs, tanks, stations, pumps, and other facilities for the production, accumulation, and transport of petroleum, natural gas, asphalt, bitumen, ozokerite and all other similar hydro-carbonous substances and their derivatives, and to construct, exploit and maintain port works, wharves, buildings, houses, factories, workshops, laboratories, refineries, wagon-roads, special railroads and decauvilles for the exploitation of the concession, tramways, and other means of transport, telephone lines (provided the construction of such lines does not violate the terms of the concession granted to the Telephone Company of Persia in 1903), telegraph lines, wireless telegraph and telephone systems, electric power plants, transmission lines, and in general, to construct, exploit and maintain all other works and agencies relative to the exploitation of this concession, in the Four Provinces. Moreover, it is expressly provided that the Concessionnaire shall also have the right to make any and all of the installations and constructions mentioned above in the Province of Guilan as well as in that part of the Four Provinces not included in the "Selected Lands".

The rights enumerated in this Article shall be exercised under the following conditions:

(1) All constructions provided for above shall be used exclusively for the operations in connection with the exploitation of this concession.

(2) If the Concessionnaire desires to make constructions running along or underneath or crossing any roads, railroads or tramways or water conduits, he shall have the right to do so, subject to replacement or repairs of any disturbances of the same created by his constructions.

(3) Copies of maps and plans of all projected constructions whether buildings, refineries, wagon roads, railroads, telephone and telegraph lines, main pipe-lines, or terminal points with their auxiliary constructions as well as copies of all maps and geological reports made in connection with the operation of this concession by the geologists and experts of the Concessionnaire shall be filed with the Government.

Remarks.

(A) The vehicles operating the transport of the Concessionnaire's petroleum products, in the case where such transport is effected over routes other than those under the control of the Concessionnaire, shall be subject to the regularly established road taxes.

(B) The telephone and telegraph lines mentioned in the present article cannot be connected with the public lines except with the consent of the Government.

(C) All port facilities which the Concessionnaire constructs under this contract shall be subject to such internal laws of the country as have been officially promulgated.

But it is understood and agreed that this condition shall not interfere with or hinder the right of the Concessionnaire to freely export by ship or otherwise, for the duration of this concession, any and all of the products and their derivatives mentioned in Article I, and likewise, shall not hinder or interfere with the right to import any and all of the things mentioned under Article XVI, and in general shall not prejudice or in any way hinder or interfere with any of the operations of the Concessionnaire under this contract, nor subject him to any payments except as provided herein.

Article XVIII

The Concessionnaire agrees that the Government shall have the temporary right in times of public emergency to use the Concessionnaire's telephone and telegraph lines, wagon-roads, railroads and tramways, free of charge, provided, that the exercise of this right shall not hinder or interfere with the operations of the Concessionnaire nor injure his interests, and that all damage and expense arising from such official use shall be paid by the Government.

Article XIX

After the normal expiration of this concession, all the constructions, materials, machinery and all other property pertaining to the

enterprise and in Persia at that time, including the lands of the Concessionnaire whether such lands be simply in his possession or whether they have been utilized in his operations, shall become the property of the Government, and the Concessionnaire shall have no right to claim any indemnity therefor. In case, however, that the Concessionnaire ceases to operate this concession within the first twelve years from the date of its approval by the Medjliss, (in which case the concession shall become null and void), the Concessionnaire shall surrender all his privileges and land rights but will have the right to remove, sell or export any and all of his constructions, materials, supplies, machinery and equipment, including steel tanks, derricks, tools, casings, etc., and all other movable property which he may have in Persia, whether or not installed or used in construction work or used on or under the surface of the ground, in buildings or otherwise, and the Concessionnaire shall have the right to sell or send the same abroad without hindrance from the Government or payment of any taxes or duties whatsoever.

Article XX

The Concessionnaire agrees to give to those Persian subjects who may be in his employ all reasonable facilities for acquiring a theoretical and practical knowledge of the oil industry, and to preferably employ unskilled Persian labor whenever possible, and also to give preference to Persian subjects whom he considers qualified for skilled labor.

Article XXI

The Government agrees in case of *force majeure* such as war, revolution, earthquakes, shipwrecks, storms, etc., which may in fact prevent, hinder, or delay the Concessionnaire from performing his obligations under this contract, to prolong the time of performance of the said obligations by the Concessionnaire, as well as the term of the concession, for a period of time equal to the period of prevention, hindrance or delay. The Concessionnaire shall give notice to the Ministry of Public Works in Teheran as to the occurrence of any case of *force majeure* within thirty days of the date when the occurrence can be considered of such nature as to prevent, hinder or delay his operations, and the Government shall, within sixty days after the receipt of such notification, advise the Concessionnaire in writing as to its view of the case. The silence of the Government, the sixty days having passed, will indicate its irrevocable acceptance of the Concessionnaire's excuse of *force majeure*. If the Concessionnaire, voluntarily or through negligence, fails to notify the Government of the occurrence of *force majeure* as indicated above, the latter will not

consider the event as an effective case of *force majeure*. Finally, in case of disagreement between the Concessionnaire and the Government as to the nature of such occurrence, the matter will be referred to arbitration according to the terms of Article XXII.

Article XXII

If any dispute shall arise between the Concessionnaire and the Government relative to the interpretation of the present contract or as to the rights and responsibilities of either party hereunder, the question shall be submitted to arbitration in the following manner:

Each party shall immediately name one arbitrator, and these two shall, if possible, agree upon a third arbitrator; if agreement on some third person proves impossible, both parties shall request the President of the Permanent Court of International Justice at The Hague or some similar Tribunal on which both parties may agree to name the third arbitrator, whereupon the arbitration shall proceed without delay. The Arbitration Tribunal so designated shall meet at some convenient place which the Tribunal itself will designate with the consent of the two contracting parties, and the decision of the majority of the three arbitrators shall be binding and conclusive. The costs of the proceedings including the compensation of the arbitrators and the fees of the experts and lawyers shall be assessed as the arbitrators direct.

Article XXIII

The Government shall appoint a Commissioner to represent the Government in regard to work relative to the concession, and the representative or representatives of the Concessionnaire shall be in permanent contact with him. The Commissioner shall furnish to the Concessionnaire all the information which he may possess relative to the concession whenever called upon so to do, and will give his assistance to the Concessionnaire in all matters pertaining to the operation of the concession. The Concessionnaire shall give to the Commissioner, through the intermediary of his representative, all necessary information relative to the interests of the State under the concession, including reports as to the progress of the work. The Concessionnaire shall pay to the Government a sum equivalent to $5,000.00 gold per year to defray the expense of such Commissioner.

Article XXIV

This concession which forms the object of the present law may be cancelled by the Government in accordance with a decision to that

effect by the Arbitration Tribunal provided for in Article XXII under the following conditions:

(1) If wilful violation of Article X of this contract is proved against the Concessionnaire.

(2) If failure to comply with any of his other obligations under this contract is proved against the Concessionnaire.

(3) If it is proved that the Concessionnaire or his accredited representative in Persia takes any action against the independence or integrity of Persia, or interferes in the political or religious affairs of the country.

In the cases provided for in paragraphs 2 and 3 above, the Government shall notify the Concessionnaire in writing as to his delinquency, and thereafter the Concessionnaire shall have four months in which to correct the same and if the Concessionnaire fails to make the necessary corrections, the matter will be submitted to arbitration according to the terms of Article XXII. If the verdict of the Arbitration Tribunal is against the Concessionnaire, the concession will be annulled and all the rights and properties of the Concessionnaire will be surrendered gratis to the Government as though the term of the concession had normally expired as provided in Article XIX of the present contract.

Article XXV

The Medjliss declares and the Government confirms that no other concession exists for the petroleum rights granted by the present instrument in the Four Provinces or in any part of them, and that, therefore, no one whosoever can raise any valid or legal pretensions in regard to these rights, and furthermore, the Medjliss declares and the Government confirms that the present concession, granted to the Concessionnaire for the development of the rights and privileges enumerated herein, is a sole and exclusive concession.

Article XXVI

All laws or parts of laws enacted prior to the date of approval of this contract by the Medjliss, and which are contrary to the terms of the present law, are hereby declared null and void.

Article XXVII

This contract of concession, consisting of twenty seven articles and made in duplicate, is written in French and translated into Persian, and in case of disaccord or divergence the French text only will be considered legal.

It is understood and agreed that the present contract will not be valid nor bind the contracting parties unless the Concessionnaire arranges through the intermediary of one or more American banks of good financial standing for a loan of at least ten million dollars for the account of the Persian Government. The terms and conditions of such loan will be negotiated directly between the representative of the said banks and the Persian Government. In order to proceed with these negotiations the said representative will come to Teheran as soon as it will be possible for him to do so. On its side, the Persian Government agrees to furnish for the loan security which is satisfactory and acceptable to the representative of the bank or banks.

And it is furthermore understood and agreed that until the terms of the present contract as well as the conditions of the above mentioned loan are ratified by the Medjliss, (as provided for in the Petroleum Law dated 23 Djauza, 1302) the Contractor will not be obliged to make any expenditures under this contract.

Teheran, twentieth of December, one thousand nine hundred and twenty three.

Read and approved:
For the Imperial Government of Persia.
The President of the Council of Ministers
REZA

Read and approved:
For the Sinclair Exploration Company.
Its authorized attorney
RALPH H. SOPER

[Seal of the President of the Council of Ministers.]

Witnessed by the American Consul in Teheran,
BERNARD GOTLIEB

PERU

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 351 ff.)

THE TACNA-ARICA QUESTION

(See volume I, pages 364 ff.)

CONVENTION AND PROTOCOL BETWEEN THE UNITED STATES AND PERU FACILITATING THE WORK OF TRAVELING SALESMEN, SIGNED JANUARY 19, 1923

(See *Foreign Relations*, 1919, volume I, p. 45, footnote 47.)

POLAND

EFFORTS BY THE UNITED STATES TO PREVENT DISCRIMINATION IN POLAND AGAINST THE UNITED STATES LINES IN THE TRANSPORTATION OF EMIGRANTS TO AMERICA

860c.56/61 : Telegram

The Consul General at Warsaw (Keena) to the Secretary of State

WARSAW, *January 20, 1923—10 a.m.*
[Received January 21—10:45 a.m.]

Reference Department's January 12, 6 p.m.[1] *Re* license United States Lines and my despatch number 4565 [*4578*] of July 17.[1] Yesterday morning I accompanied Cowell, American representative of United States Lines, to Ministry of Commerce to discuss matter of license for shipment [*sale?*] of second- and third-class [tickets] for current year. The form of license offered by Polish authorities was similar to that described in enclosure to my despatch number 4578 of July 17 except that it called for direct transportation from Danzig of 50 percent emigrant passengers and balance to Bremen via Danzig only on United States Lines or Polish vessels. Polish authorities admitted that French lines for example under the license just issued them could transport 50 percent emigrant passengers direct by rail to Havre or Cherbourg and balance via Danzig to Havre by any vessels they elected to use and that other Continental and British transportation companies were similarly favored. They insisted, however, that they would not give any more favorable license than that proposed for the United States Lines to any line of vessels sailing from German ports. We informed them that the license was unacceptable in the proposed form and asked for equality of treatment with British and Continental lines in the matter on a basis of 50 percent emigrant passengers transported from Danzig by direct steamer and balance direct by rail to Bremen. They refused unconditionally that request and demanded immediate signature of the license as proposed failing which the office of the United States Lines, Warsaw, would be ordered to close. I thereupon advised the Polish authorities that under the circumstances I could not continue to grant visaes without first referring the matter to the Department for appropriate consideration and decision and would

[1] Not printed.

close the visa section from January 22. A notice in writing to close was received by the Warsaw office of the United States Lines about one hour after this interview. I am giving public notice that alien visa section will be closed in this event January 22 and until further notice. Mail report will be forwarded as soon as data promised me by Polish authorities in regard to terms of licenses of other lines is received.

KEENA

811.111/39098a : Telegram

The Secretary of State to the Minister in Poland (Gibson)

[Paraphrase]

WASHINGTON, *January 22, 1923—7 p.m.*

4. For Consul General Keena:

Your January 20, 10 p.m. [*a.m.*] The Department is unable to give its approval to the closing of the visa section of the consulate general for the reasons you give. Notice should be immediately withdrawn or modified and granting of visas subject to usual regulations should be resumed.

Department will instruct you later regarding license situation.

HUGHES

860c.56/63 : Telegram

The Minister in Poland (Gibson) to the Secretary of State

WARSAW, *January 24, 1923—6 p.m.*

[Received January 25—3:11 a.m.]

10. Department's 4, January 21st [*22d*], 7 p.m. Earnestly request reconsideration be given consul general's 1923, January 20th, noon,[1a] and January 24th, 4 p.m.,[2] as I feel Department's decision on this subject of principle will largely determine our ability to afford effective future protection to American interests. Consul general's 1923 was perhaps over conservative in describing conditions. Representative of the United States Lines was peremptorily called upon for immediate signature of license agreement on totally impossible terms prepared by Polish authorities. In addition to showing clear discrimination as compared with conditions granted British and Continental navigation companies, terms were [offered?] which solely from business and operating standpoint are preposterous, and representative of the United States Lines prop-

[1a] Evidently refers to unnumbered telegram of Jan. 20, 10 a. m., p. 738.
[2] Not printed.

erly took the ground that agreement was not only discriminatory but as business proposition could not be given serious consideration. As immediate signature was not forthcoming offices of United States Lines were within one hour closed by the police and a guard posted to prevent transaction of business or any access to the office. This behavior is in striking contrast to attitude toward French lines which, having been proposed [*sic*] much more favorable, have withheld signature and are still permitted to operate freely without a license. French Legation informs me business will continue in this way pending an agreement which may not be reached for two months. While the Polish Government constantly emphasizes its gratitude to America it is [consistently discriminating] against American interests and resorts to all sorts of evasion in order to achieve its purpose. Reasons offered are clearly frivolous and contradictory. The real reason is a desire to enforce a boycott against German ports at our expense. In order to accomplish it they presume to dictate the travel routes not only of Poles but also of foreigners in transit after leaving Polish territory. This also applies to American consular agency inasmuch as license governs sale in Poland of all second- and third-class passenger tickets. If this claim recognized it may constitute a troublesome and dangerous precedent here in Poland and elsewhere in case other governments decide to assume similar powers.

I have discussed this matter at length with consul general and commercial attaché. We are all firmly convinced that some such vigorous measure as that now taken is essential to any satisfactory settlement. In order to be effective it must have full and open support of the Department. Discussions have now continued for over two years during which time Polish authorities have sought by every subterfuge, often characterized by absence of good faith, to avoid granting us the rights and privileges accorded to other nations. On our side we have been handicapped through our inability to press the American interest in this matter because of the German connections of the United States Lines. Now that this has been removed and the issue is a clear one of whether American navigation companies are to have equal rights, we believe there is an excellent chance to bring the matter to a successful conclusion. If the Department reverses stand taken by consul general and reopens the matter for consideration it will seriously prejudice former contracts and no modification of concession terms will be possible as the Poles will conclude that American Government does not attach much importance to this principle of equal rights for its commercial interests [and] will be stiffened in their resistance to any demand for reasonable terms. Can see no benefit to be derived from yielding at this

time as the Polish authorities make no serious pretense of being ready to discuss matter in a different and more friendly spirit. If visa section opened we will merely face a more serious problem than before.

GIBSON

860c.56/63 : Telegram

The Secretary of State to the Minister in Poland (Gibson)

WASHINGTON, *January 25, 1923—6 p.m.*

6. Your 10, January 24, 6 p.m.

Please call immediately upon Foreign Minister and inform him that summary action of Polish authorities in demanding signature of license agreement, and closing office of United States Lines has made a most unfortunate impression upon this Government, especially in view of the fact that French Lines are operating under *modus vivendi* although they have not yet accepted new license terms. You may state that this Government confidently expects that the Polish Government will at once remove the guard from the United States Lines' offices, and will arrange for the immediate resumption of business by the Lines under the former license terms until agreement can be reached on the terms of a new license.

You will point out that the peremptory action of the Polish authorities was taken against an interest that is not only American, but also the property of the United States Government. You may leave a memorandum in the following words relative to the status of the United States Lines:

"The United States Shipping Board is a Government Agency, created by statute of the United States of America, and having general duties relating to our shipping and Merchant Marine. The United States Shipping Board Emergency Fleet Corporation is a corporation, the creation of which was authorized by statute of the United States, and the capital stock of which is held by the United States Shipping Board. It is charged with the administration of duties relating to American shipping. The United States Lines is not a corporation; it has no capital stock; it is not a partnership; it is not an association. It is only the name under which the Shipping Board, as an agency of the government, operates certain vessels engaged in trans-Atlantic service. All of these vessels are documented in the name of the United States of America. All expense involved in their operation and service is ultimately borne by, and all revenue from their operation, ultimately accrue[s] to the United States of America. In executive administration, they are under the general direction of a designated representative of the Shipping Board."

If question of Lines' agreement with North German Lloyd is raised, you may state that the Lloyd is merely the agent of the Lines in certain European countries; but that it is not the agent for Polish

business. The Lines use certain of the Lloyd's facilities in Germany, including docks, et cetera, at Bremen, but the Lloyd has no financial interest in the Lines.

[Paraphrase.] Department spoke today very pointedly to the Polish Minister in the sense of opening paragraph of this telegram. He promised that he would cable his Government.

Closing of visa office is strongly disapproved by the Department, which is embarrassed by that action in dealing with the Newcastle-on-Tyne incident in Great Britain [3] and in relations with Congress. Visa section of consulate general should be reopened promptly. Department does not approve modification reported by consul general in his January 24, 4 p.m.[4] You should promptly telegraph date of reopening of the visa office.

The Department will consider appropriate steps to take if the attitude of the Polish Government toward American interests is and continues to be in general hostile. You should make a general report, by telegraph if necessary, regarding Polish attitude, giving such facts as could be used as a basis for action of the kind suggested in Department's telegram 46 of May 25, 1922, 5 p.m.[4] if the facts justified it. [End paraphrase.]

HUGHES

860c.56/65 : Telegram

The Minister in Poland (Gibson) to the Secretary of State

WARSAW, *January 27, 1923—4 p.m.*
[Received January 29—10:40 a.m.]

17. Department's 6, January 25, 6 p.m. In accordance with instructions visa section of consulate general reopening without reservation from this date. Polish Government yesterday voluntarily offered to remove ban on United States Lines office effective today.

GIBSON

860c.56/67 : Telegram

The Minister in Poland (Gibson) to the Secretary of State

WARSAW, *January 29, 1923—5 p.m.*
[Received January 30—2:40 a.m.]

18. Department's January 25, 6 p.m. Discussed entire matter with Minister for Foreign Affairs today. I impressed on him at some length harmfulness of handling American questions by force and seeking to withhold fair treatment through obstruction; that there

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[3] See pp. 306 ff.
[4] Not printed.

exist[s] no sound reason for conflict; that all difficulties for the past four years have been needlessly created by subordinate officers and that he could best serve Polish interests by insisting that these questions be handled in broader spirit in harmony with Polish friendship for the United States; that failing this we should inevitably continue to drift from one incident to another with regrettable results. I urged him to study my negotiations with Narutowicz (my despatch no. 1291, September 30th, 1922 [5]) and see if he could not carry out the assurances that had been given me looking to the elimination of pettifogging tactics and to a friendly effort to settle all American questions on their merits.

He said that he was impressed by the fairness of my statement and promised to take up the whole matter in the Cabinet with a view to securing effective action. I went over several other matters now pending and he has promised to press for favorable settlement. In the meantime he has promised me written assurances of satisfactory treatment for the United States Lines including free use of Bremen as soon as pending economic negotiations with Germany are completed, operations of the United States Lines to continue meantime under previous license. Chief of American section warmly supported my representations. Believe matter has been started in the right direction but we have still to reckon with obstructive minor officials. Discussion friendly and even cordial. Until now the Ministry has sought to evade the question by quibbling as to the exact status of the official who closed the office and by other irrelevant arguments but today there was distinct improvement in atmosphere over last week, clearly due to salutary effect of closing visa section.

GIBSON

860c.56/73 : Telegram

The Secretary of State to the Minister in Poland (Gibson)

WASHINGTON, *March 30, 1923—2 p.m.*

23. Your 64, March 24, noon.[5]

Rossbottom [6] has furnished the Department with a copy of the concession offered United States Lines by Polish Government, together with copy of modifications proposed by Keena.[5] In letter [5] transmitting these copies he states that he understands that under the terms of the agreement between the Red Star Line and the Polish Government, which is reported to run for one more year, the Red Star secures its Polish passengers by rail transportation from Poland to Antwerp and that the Red Star does not operate any service to

[5] Not printed.
[6] F. H. Rossbottom, general manager of the United States Lines.

or from Danzig. He states further that in his opinion American lines are justified in asking the Polish Government for the same kind of a concession as that under which the Red Star is at present engaged in handling Polish-American traffic and that negotiations regarding the license should take place at Warsaw. The Department concurs in this view and you should, upon the request of Richardson,[8] urge the Polish authorities to grant to the United States Lines the same treatment respecting the Polish-American traffic as that enjoyed by the Red Star Line.

You can be assured that you will have the Department's support in all representations made by you in behalf of the Lines' license in which you seek to obtain for them treatment equally as favorable as that accorded to any foreign line.

Please report telegraphically concerning present status of negotiations.

HUGHES

860c.56/82 : Telegram

The Minister in Poland (Gibson) to the Secretary of State

WARSAW, *April 13, 1923—10 p.m.*
[Received April 14—5:18 p.m.]

75. My 72, April 6.[9] Polish Government today broke off negotiations by definite refusal to entertain application for license to transport passengers by rail to Bremen although Ministry for Foreign Affairs and Emigration Bureau have expressed themselves as convinced of reasonableness of our request. Competing lines still allowed to transport passengers by rail across Germany to their European bases. Arguments advanced are entirely frivolous, among them are statements that: 1. Bremen is most attractive European port for emigrants and that if license were granted on terms requested, all emigrants would choose to go by United States Lines, thereby reducing traffic via Danzig and taking business from our competitors. This in complete contradiction of reason previously given, namely, that emigrants could not be allowed to go by way of Germany as they were so brutally treated. 2. That there was no commercial treaty between Poland and the United States or Germany while other countries enjoyed these privileges under commercial treaties. This is hardly convincing in view of the fact that neither England nor Holland has commercial treaties with Poland. 3. That far from suffering from discrimination, the United States Lines enjoy privileged treatment in view of the fact that no other

[8] Dorsey Richardson, director general for Europe of the United States Lines.
[9] Not printed.

lines are allowed to use German ports for their emigrants. This is difficult to reconcile with expressed willingness of Polish Government to allow lines to run shuttle service as we now do from Danzig to German ports. The United American Lines and British lines operate shuttle service from Danzig. 4. That public opinion much aroused against proposed license. Publicity confined to single article distorting facts obviously inspired by some Polish official who participated in conferences. 5. That Association of Polish Shipowners protests against proposed license as calculated to harm Polish merchant marine. 6. That some day when Danzig is properly organized it will be desired to send all emigrants by that port.

[Paraphrase.] The Vice Minister for Foreign Affairs said, in communicating this definite decision, that he was ready to negotiate with us a commercial treaty containing a most-favored-nation clause and leave the matter of our application for arbitration under conditions which will be stipulated. It might be remarked with respect to this that the Polish Government's attitude indicates a wish to make the matter of treating us fairly and equitably a subject for treaty negotiations. The surprising statement was also made by the Vice Minister that he was convinced that our Government would never make representations on this subject. From the nature of the arguments made by the Polish authorities and from their whole attitude it is evident that they feel sure that if they refuse our demands, the State Department will drop the subject or else the United States Lines will offer more favorable terms as in the past. I would therefore suggest that the whole issue be impressed earnestly upon the Polish Minister and that it be intimated that if the Polish Government persists in its present attitude the American Government will find it necessary to publicly warn American interests that American interests are being discriminated against knowingly by the Polish Government. The Minister might be advised at the same time that our Government was no longer prepared to offer to the Government of Poland facilities of any kind either through the Shipping Board or otherwise and that the Department of State would not be disposed to take up the question of a commercial treaty or any other arrangement with Poland until settlement of all pending cases of discrimination against American citizens or enterprises. I suggest that a copy of this communication be cabled to me at the same time so that I can present it textually in order that the Polish Government can have no possible grounds for misunderstanding as to the importance of this matter in the opinion of the Department. It is significant that Polish Government undertakes to dictate that if anyone going to America wishes to go by rail to a western European port, with a through ticket either bought in Warsaw or prepaid in America, he

must take ship on a foreign line. This means a loss to the American steamship *commissaire*. The statistics of the visa section of the consulate general show in this connection that tickets for 97 percent of the emigrants are bought and prepaid in the United States.

I suggest that Rossbottom be given substance of this telegram.

The above represents the views of the commercial attaché, the consul general, and Richardson. [End paraphrase.]

GIBSON

860c.56/82 : Telegram

The Secretary of State to the Minister in Poland (Gibson)

WASHINGTON, *April 23, 1923—6 p.m.*

34. Your 75, April 13, 10 p.m.

You are instructed to address a formal note to the Minister of Foreign Affairs embodying the following.

"The Government of the United States is informed that the Polish authorities have definitely declined to entertain an application which has been made by the United States Lines for a license to engage in the transportation of third class passengers from Poland. It is understood that this decision is based upon objection on the part of the Polish authorities to the desire of the United States Lines to transport third class passengers by rail to Bremen for embarkation at the terminals maintained by the United States Lines at that port.

It does not appear necessary to enter into a discussion of the detailed reasons which are understood to have been advanced by the Polish authorities in support of their objection. The point which presents itself to the Government of the United States as of essential importance, necessitating official intervention, is the discrimination against the United States Lines which is considered to have arisen.

It is the understanding of the Government of the United States that various foreign competitors of the United States Lines are permitted, under existing licenses, to ship third class passengers across Germany by rail to the respective terminal ports of these lines. It is understood that the French Line is permitted to transfer third class passengers in this way to Cherbourg and the Red Star Line to Antwerp. A denial of like facilities to the United States Lines, which maintain terminals at Bremen, presents itself to this Government as manifestly discriminatory.

The fact that the terminals of the foreign lines in question are maintained at what may be described as their home ports is not, in the opinion of the United States, important. It is evident that American shipping lines cannot have home ports in Europe. They must, as a practical matter, establish their European terminals where they may conduct their business in the most satisfactory and economical manner. It is understood that the United States Lines are prepared to give the same guarantees with respect to the welfare and health of third class passengers in transit as may be required from competing lines.

The Government of the United States makes no objection to any desire which may exist on the part of the Polish authorities to build up the port of Danzig in connection with the Polish emigration business, but cannot consent that this should be done by any arrangement which does not assure to American shipping companies, and to American interests in general, equality of treatment with respect to their foreign competitors.

The Government of the United States is confident that the Government of Poland, upon a consideration of the matter as now presented, will acquiesce in the opinion of the Government of the United States that the reported refusal of the Polish authorities to entertain the application of the United States Lines for a license enabling them to forward third class passengers by rail to their Bremen terminal constitutes discrimination against the United States Lines in favor of foreign competitors and is a denial of that fair and equivalent treatment upon which the Government of the United States must insist."

The same has this afternoon been handed to the Polish Minister here and he has been apprised of the importance which this Government attaches to the matter.

HUGHES

860c.56/108

The Minister in Poland (Gibson) to the Secretary of State

No. 1658 WARSAW, *May 16, 1923.*
[Received June 12.]

SIR: With reference to my despatch No. 1620 of April 27th [10] transmitting copy of my note of April 26th to the Ministry for Foreign Affairs [11] in regard to the question of a license for the United States Lines, I have the honor to transmit herewith enclosed copy and translation of a reply to that note which has today been received from the Ministry for Foreign Affairs. I have reported the substance of this note, together with certain comments, in my telegram No. 97 of May 16th, 7 p.m.[10]

The question having been fully covered in my telegram above referred to, I can only add that there is a manifest intention on the part of the Polish authorities to avoid considering this question on any broad and generous grounds and to consider only the technical phases of the matter with a view to withholding the privileges desired.

I have [etc.] HUGH GIBSON

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[10] Not printed.
[11] See telegram no. 34, Apr. 23, to the Minister in Poland, *supra*.

[Enclosure—Translation]

The Polish Minister for Foreign Affairs (Skrzynski) to the American Minister (Gibson)

No. D/II. O. A. 1592 WARSAW, *May 15, 1923.*

DEAR MR. MINISTER: In answer to the Note of Your Excellency dated April 26, 1923, No. 2211, in which you transmitted to me an official communication from your Government concerning the point of view of the Government of the United States on the question of a concession to be granted by the Polish Government to the navigation company "United States Lines", I have the honor to inform you that the contents of the above mentioned note have been carefully scrutinized by the competent authorities.

The Polish Government in view of requests for concessions from various navigation companies had decided in principle to grant concessions on the basis of entire equality to all these companies. This is why the Polish Government was deeply concerned by the allegation of pretended discrimination which the interests of the American companies are said to have suffered.

In the concession granted to the "United States Lines" on December 31, 1921, the latter was authorized to sell second and third class tickets to Polish emigrants going to the United States by a shuttle line from Danzig via Hamburg.

The other companies obtained the concession to sell tickets partly (60 to 50 percent) from Danzig to American ports and partly from other European ports excepting, of course, the German ports. This provisional ruling was forced upon the Polish Government because of the temporary lack of capacity of the port of Danzig to serve as the sole base for Polish emigrants.

In seeking auxiliary ports the Polish Government could only take into consideration ports which by their geographic situation could not in future threaten Danzig with serious competition.

The permission to make use of German ports as transshipping ports which has been granted to the United States Lines absolutely exceptionally cannot therefore be looked upon as a voluntary breach made in the maritime policy of Poland. Such a decision was only dictated by a sincere desire to extend facilities to American companies in their work in Poland, and in fact did not fail to be the object of symptomatic protests from other navigation companies.

It is with great surprise, therefore, in view of the above that the Polish Government found in the note of the American Government the expression "discrimination" from which the interests of the American navigation companies are alleged to be suffering.

Treatment on a footing of the most favored nation in the absolute sense of the word consists in all favor or privileges granted to a third state on this score being guaranteed to the other contracting party. As a matter of fact Poland having no treaty with the United States the latter can not invoke, judicially speaking, the most favored nation treatment.

Nevertheless Poland desires to grant, even without any convention, to the United States in the matter of navigation the same treatment as that granted to other nations. Poland would be ready to grant to the United States that which in this province it has conceded to other nations in its commercial treaties.

In no case can I admit the thesis according to which Poland is alleged to discriminate against the United States, that is to say that it would place them or more exactly it would place the American Navigation Company under less advantageous conditions.

The idea of discrimination implies a conscious action tending by special measures to placing a company in a situation of inferiority which in fact would consist in conditions less advantageous than those which other nations enjoy. But this is not the attitude of Poland toward the United States. Although it has no treaty with the United States, Poland grants the American Navigation Company the same conditions that it grants to the companies of other countries: it allows the embarkation of emigrants in all the ports of Western Europe with the exception of the German ports. Consequently, from a judicial point of view Poland cannot admit the unjustified reproach of discrimination.

In economic relations it often happens that one of the contracting parties which formerly enjoyed the same advantages as the other cannot in fact take advantage of this equality of treatment for reasons which are independent of the party with which it enters into contract. This happens most often in the matter of customs duties. Nevertheless such occurrences have never given rise to allegations of discriminations. A treaty of commerce based on the principle of the most favored nation can never guarantee effective equality but only the equality of privilege as compared to the equality of restriction.

It is in this way that the question appears in the present instance. Poland is not responsible by the fact that the American Navigation Company has embarkation ports in Germany. Poland excludes the German ports from any concessions granted navigation companies. In applying this condition to the American Navigation Company Poland in no way departs from the principle of equal treatment which it desires to grant to the United States, although it has no navigation treaty with them.

Although privileged in this way the company "United States Lines" considers itself damaged in comparison with other navigation companies. There can evidently be no question of the principle of base ports (home ports), the Polish Government having absolutely decided that to facilitate Polish emigrants in view of the actual lack of capacity of the port of Danzig the use of auxiliary ports is imperative. Among the latter, however, the ports of Bremen, Hamburg and Koenigsburg can never be included. Thus the British company, "Royal Mail Steam Packet Co.", has obtained a concession for transporting emigrants through the ports of Danzig, Rotterdam and Cherbourg; the English company, "Cunard Steam Ship Co." through Danzig and Cherbourg; and the Canadian company, "White Star Line" via Danzig and Cherbourg. Other similar cases of concessions could also be cited.

Allow me to express the hope that the Government of the United States will be willing to admit that the point of view set forth in the present note is well founded as this note has for its object the clearing up of misunderstandings which had arisen for it is not conceivable that the Polish Government could have wished to make use of discrimination from which American interests would have suffered.

Please accept [etc.]

For the Minister for Foreign Affairs:
HENRYK STRASSBURGER

860c.56/101 : Telegram

The Consul General at Warsaw (Keena) to the Secretary of State

WARSAW, *May 24, 1923—3 p.m.*
[Received 8:03 p.m.]

Reference your May 11, 6 p.m.[12] My May 18, 7 p.m.[12] According to information obtained May 22 the French line has refused to accept any concession offered because of Danzig requirement. Local agent of the United States Lines reports that under tacit agreement with Polish authorities United States Lines are now sending emigrants by rail direct to Bremen. Agent of United States Lines believes this arrangement can be carried on through quota season if question of a formal written license is not pushed meanwhile. Polish authorities at present showing inclination toward boycotting port of Danzig as result of Polish Danzig political disagreement.

KEENA

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[12] Not printed.

860c.56/109 : Telegram

The Acting Secretary of State to the Minister in Poland (Gibson)

WASHINGTON, *June 20, 1923—3 p.m.*

50. Your 97, May 16, 7 p.m.[13]

In view of information contained in Keena's May 24, 3 p.m., and telegrams from Richardson, Shipping Board does not desire to press question of formal written license at this time. Inform Keena.

In reply to Foreign Office note of May 15, 1923, you should simply say that the note was duly received and that, in view of subsequent developments, this Government will refrain for the time being from a further discussion of the matter.

PHILLIPS

860c.56/111 : Telegram

The Minister in Poland (Gibson) to the Secretary of State

WARSAW, *June 23, 1923—1 p.m.*

[Received 7 p.m.]

119. Department's 50, June 20, 3 p.m. Unless Department specifically desires reply made to Foreign Office, consider preferable to leave Polish note unanswered pending further developments in view of past handling of the case. Reply suggested by Shipping Board would probably be interpreted as tacit acceptance of Polish point of view and would render more difficult any attempt to raise question again in the future.

GIBSON

[13] Not printed.

PORTUGAL

AGREEMENT BETWEEN THE UNITED STATES AND PORTUGAL, SIGNED SEPTEMBER 5, 1923, FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 6, 1908 [1]

Treaty Series No. 735

Agreement between the United States of America and Portugal, Signed at Washington September 5, 1923 [2]

The Government of the United States of America and the Government of the Portuguese Republic, being desirous of extending for another five years the period during which the Arbitration Convention concluded between them on April 6, 1908, and extended by the Agreements concluded between the two Governments on June 28, 1913 [3] and September 14, 1920,[4] shall remain in force, have authorized the undersigned to conclude the following Agreement:

Article I

The Convention of Arbitration of April 6, 1908, between the Government of the United States of America and the Government of Portugal, the duration of which by Article III of the said Convention was fixed at a period of five years from the date of the exchange of ratifications thereof, which period, by the Agreement of June 28, 1913, between the two Governments, was extended for five years from November 14, 1913, and was further extended for a period of five years from November 14, 1918, by the Agreement concluded by the two Governments on September 14, 1920, is hereby renewed and continued in force for a further period of five years from November 14, 1923.

Article II

The present Agreement shall be ratified by the Government of the United States of America and by the Government of the Portuguese Republic in accordance with their respective constitutional methods,

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[1] For text of convention of 1908, see *Foreign Relations*, 1908, p. 702.

[2] In English and Portuguese; Portuguese text not printed. Ratification advised by the Senate, Jan. 7, 1924; ratified by Portugal, Feb. 26, 1926; ratified by the President, Apr. 8, 1926; ratifications exchanged at Washington, Apr. 16, 1926; proclaimed by the President, Apr. 16, 1926.

[3] *Foreign Relations*, 1914, p. 1070.

[4] *Ibid.*, 1920, vol. III, p. 424.

and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate, in the English and Portuguese languages, at Washington, this 5th day of September one thousand nine hundred and twenty-three.

[SEAL] WILLIAM PHILLIPS
[SEAL] ALTE

711.5312/36a

The Acting Secretary of State to the Portuguese Minister (Alte)

WASHINGTON, *September 5, 1923.*

SIR: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and Portugal, April 6, 1908, and renewed from time to time, I have the honor, in pursuance of the note of July 26, 1923, of the Secretary of State, and your note of August 8, 1923,[5] to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague.[6] As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, I understand that the Government of the Portuguese Republic will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

Accept [etc.] WILLIAM PHILLIPS

711.5312/35

The Portuguese Minister (Alte) to the Acting Secretary of State

[Translation]

WASHINGTON, *September 5, 1923.*

Mr. SECRETARY OF STATE: Under instructions from His Excellency the Minister for Foreign Affairs of the Portuguese Republic, I have the honour to confirm your understanding of the attitude of the Gov-

[5] Neither printed.
[6] Vol. II, pp. 1 ff.

ernment of the Republic with reference to the point mentioned in your note of this date and to state that, should the Senate of the United States approve the President's proposal the Government of the Portuguese Republic will be prepared to consider with the United States Government the conclusion of an agreement for the reference to the Permanent Court of International Justice of disputes mentioned in the Arbitration Convention between the two countries.

Accept [etc.] ALTE

RUSSIA

CONTINUED REFUSAL BY THE UNITED STATES TO RECOGNIZE THE SOVIET REGIME IN RUSSIA

Press Release Issued by the Department of State, March 21, 1923

In response to the delegation of the Women's Committee for Recognition of Russia, which was received today by Secretary Hughes, the latter said:

"LADIES: It gives me great pleasure to receive you, and I want you to know that I deeply appreciate the sincerity and the earnestness with which you speak. I know how deeply interested you are in promoting the cause of peace and I can assure you that I am profoundly in sympathy with your desires and aims. I have done the best that I could in the discharge of my official responsibilities to serve that cause which is very close to my heart.

"In speaking to the representatives of your general organization last May, I voiced the concern which we felt for the welfare of the people of Russia. The evidence of the last year, as we have become even more intimately acquainted with the great distress into which they have been plunged, has intensified that feeling. The constant and dominant thought in our minds is 'How can we help that stricken people?'

"So far as charity is concerned, it has been poured out lavishly. I do not think that any fairminded person can doubt the heart of the American people and our desire to give relief. But, as you have pointed out, charity is not enough. The problem is far deeper than that. It is an economic problem, and humanitarian interests, however keen they may be, cannot escape the underlying and controlling facts. Not only do we not desire to interfere with the internal concerns of Russia; not only do we recognize the right of the Russian people to develop their own institutions, but such interference would be futile. The salvation of Russia cannot be contrived outside and injected. Russia's hope lies in Russia's action. It is absolutely impossible to deal with matters which are in the control of the Russian people and which, until they are adequately dealt with, furnish no ground for helpfulness, no ground for Russian recuperation.

"Russia needs industry and trade, but industry and trade cannot be created by any formal political arrangements. However important may be the facilitation of the transactions of industry and trade through political arrangements, still those arrangements do not create the transactions or supply the essential basis for them. You can't support what does not exist. We have in the case of Russia the need of investment. It would not help the Russian people to encourage adventurers, or those who would wish to go into Russia for

the purpose of exploitation. The benefit to Russia, through which her productivity can be increased and the basis of industry and trade provided, must come from those who make a permanent investment in Russia, who are there to see their transactions through on a basis of permanent relations, and who consequently so far as they are foreigners, can be assured before they will contemplate such investments that these will be secure and worthwhile. The conditions, which would invite the foreign assistance which you point out is so necessary, are in the control of the Russian authorities. They cannot be in the nature of things supplied from the outside.

"Now I may say that there is a good deal of fallacy in what is said about trade between Russia and other nations. Of course, other peoples are trading with Russia and our people are trading with Russia. Trade is going on, so far as it can go on, but it is relatively insignificant. If you will examine statistics you will observe that it makes very little difference whether or not any particular government has recognized the Soviet authorities with respect to the actual trade that is being conducted. If Russia buys she must be able to have something to buy with; that is, she must produce so that she can buy.

"I am glad to note that agricultural conditions in Russia have somewhat improved, because agriculture is basic in Russia. There is hope in that fact, but agricultural conditions are still far from what they should be. The conditions of industry and transportation are most lamentable. If you need to know what those conditions are I refer you to the Soviet authority, Mr. Rykoff, and his statements last fall, which no doubt are accessible to you and the analysis of which I think will correct some of the rather optimistic statements that you have made. There have been changes in laws and methods. I would be the last to decry them. It is not a pleasure to me to look into the conditions of Russia and find them unsatisfactory. It would be the keenest delight to me to find that they were quite the reverse. On the other hand, it serves no useful purpose to take these changes that have been made and exaggerate their effect or misconceive the result of them. They are far from adequate to create the conditions which would support industry and trade in Russia. If you will examine Mr. Brandenburgsky's analysis of the civil code and the changes in laws which have been recently made, you will find indubitable evidence of the unsatisfactoriness and inadequacy of those changes. He, as you no doubt know, had a good deal to do with the preparation of these laws. The reason Russian stocks are decreasing, the reason that they have this progressive impoverishment is that they have not yet supplied what is essential. And when I speak of what is essential, I am not referring to anything that anybody on the outside of Russia, least of all ourselves, artificially sets up. We are pointing to the conditions of helpful intercourse in the world as it exists. If there were any need of a demonstration of the essentiality of those conditions, the Russian experience would certainly give it.

"I recognize fully the distinction between matters exclusively of economic import, and the question of diplomatic relations. As I said to the representatives of your organization a year ago, the fundamental question in the recognition of a government is whether

it shows ability and a disposition to discharge international obligations. Stability, of course, is important; stability is essential. Some speak as though stability was all that was necessary. What however would avail mere stability if it were stability in the prosecution of a policy of repudiation and confiscation? In the case of Russia we have a very easy test of a matter of fundamental importance, and that is of good faith in the discharge of international obligations. I say that good faith is a matter of essential importance because words are easily spoken. Of what avail is it to speak of assurances, if valid obligations and rights are repudiated and property is confiscated? This is not a question of the rich or of the poor. It's a question of principle. Only the other day I had a letter stating the case of two American women who had been living in Russia and invested all their savings in Russian securities, and they are poor people, dependent, and they are very anxious to know whether these securities will have any recognition.

"Our own government, after the first revolution, loaned about $187,000,000 to Russia. I may say that we were the first to recognize the Kerensky Government; that government did not profess a policy of repudiation. Now what did the Soviet authorities do? In their Decree of January 21, 1918, they made this simple statement: 'Unconditionally, and without any exceptions, all foreign loans are annulled.'

"What was loaned to Russia out of our Liberty Bond proceeds, and the war loans obtained by Russia before the revolution to enable Russia to continue the war were simply annulled! Now the United States is not a harsh creditor. The United States is not seeking to press debtors who cannot pay beyond their means. But indulgence and proper arrangements are one thing, repudiation is quite another. I have yet to hear of any change in this announcement of the Soviet authorities. Suggestions which have been reported have always been coupled with impossible qualifications. This strikes at the heart of some of the suggestions which you have made in the interest of the principles of religion, which we all have at heart—good faith is the very essence of brotherly kindness. There is no hope for the success of your gospel—our gospel—of brotherly kindness in a world of hatred and in a world which is not animated by the sincerity of good faith.

"Here is a simple test. We have in this case no need to speculate, as of what avail are assurances when we find properties taken, without compensation or restoration, obligations repudiated,—properties of all sorts, the investments of one of our great life insurance companies, for example.

"Not only would it be a mistaken policy to give encouragement to repudiation and confiscation, but it is also important to remember that there should be no encouragement to those efforts of the Soviet authorities to visit upon other peoples the disasters that have overwhelmed the Russian people. I wish that I could believe that such efforts had been abandoned. Last November—last November Zinoviev said: 'The eternal in the Russian revolution is the fact that it is the beginning of the world revolution.' Lenin, before the last Congress of the Third Internationale, last fall, said that 'the revolutionists of all countries must learn the organization, the planning,

the method and the substance of revolutionary work.' 'Then, I am convinced,' he said, 'the outlook of the world revolution will not be good but excellent.' And Trotsky, addressing the Fifth Congress of the Russian Communist Youths at Moscow last October—not two years ago, but last October—said this: 'That means, comrades, that revolution is coming in Europe as well as in America, systematically, step by step, stubbornly and with gnashing of teeth in both camps. It will be long protracted, cruel and sanguinary.'

"Now I desire to see evidences of the abandonment of that policy. I desire to see a basis for helpfulness. We want to help. We are just as anxious in this Department and in every branch of the Administration as you can possibly be, to promote peace in the world, to get rid of hatred, to have a spirit of mutual understanding, but the world we desire is a world not threatened with the destructive propaganda of the Soviet authorities, and one in which there will be good faith and the recognition of obligations and a sound basis of international intercourse."

861.01/623

The President of the American Federation of Labor (Gompers) to the Secretary of State

WASHINGTON, *July 9, 1923.*

SIR: I should be grateful to you for an expression of your views concerning what seems to me an important phase of the American position regarding the Russian soviet power.

We are confronted frequently with the statement that economic conditions in Russia are improving, that the soviet authority is proving stable, that Russian agriculture is recovering and that the American government, because of these and other similar matters, should extend recognition to the soviets.

Of course much that is reported by returning travelers is misinformation gathered during closely supervised tours, but I am not at the moment discussing the truth or falsity of reports as to Russian economic conditions. What I have in mind is that it might serve some purpose if those who are standing for American principles and for the American concept of right and justice and democracy could be given clearly to understand that the backbone of the whole situation regarding Russia is the denial to the people of Russia of any opportunity to pass judgment on their own affairs or to say by whom or in what manner they shall be governed.

It has been the consistent contention of the American Federation of Labor that the soviet power cannot be recognized because it is an autocracy forced upon the people of Russia without their consent and against their will and maintained in the same manner.

I find that Mr. Bullard, then chief of the Division of Russian Affairs of the Department of State, appearing before the House Com-

mittee on Foreign Affairs of the Sixty-sixth Congress, Third Session, and discussing House Resolution 635, said:

"The State Department is very energetically opposed, and necessarily, to the present people in control of Russia because they believe they are a tyrannical minority imposing themselves on a reluctant people."

This has been repeatedly stated to be the belief of the government of the United States, although it should be said, as you doubtless would agree, that the personnel of the present tyranny is not the point of objection; the point of objection is the tyranny itself and a change of personnel would be of no significance, so long as the tyranny remains.

While the position stated by Mr. Bullard has been put forth by the Department of State on various occasions, the statement of that fundamental policy has usually been as a portion of a statement containing other provisions, so that the essential has been more or less involved with other and less vital matters.

It has for a long time seemed to me that we should understand that this is the vital principle, the very essence of our whole point of view regarding Russia; and that other matters are secondary and of minor importance.

I have stated many times that so far as my viewpoint is concerned, I am not able to see where good crops, or an improving economic condition, or any one of a number of things, including an acknowledgment of Russia's financial obligations, could change the American position regarding recognition, as long as the principle of tyranny remains. It has been urged that the so-called New Economic Policy, modifying the practice of communism, removed some of the objection to recognition, but we have held that any policy that was changed one way by edict could as well be changed another way by edict—and we are opposed to the whole autocratic principle under which people are governed by fiat, edict and military command.

The definition of the policy of the Department of State, as read into the record of the hearing on House Resolution 635, seems to me to put the whole question on the proper basis; to put it, indeed, upon the only sound basis. I am unable to see any other tenable basis upon which a democracy could take a position that could be maintained with consistency. There is involved here an unchanging position upon which, if I see the matter rightly, we are bound to hold without abatement, because of our very faith in democracy and because of our determination that freedom is the heritage of every human being, the denial of which we cannot look upon anywhere with complacency.

I shall be deeply obliged to you if you will inform me whether I have correctly interpreted the views of democratic America as expressed officially for our people by the Department of State. It will be a reassurance of great value if we may all understand clearly that the denial of freedom to the Russian people is the keystone of our position in relation to the question of recognition. To the wage earners of the United States the present tyranny in Russia is a thing despicable and intolerable in practice and beyond consideration in principle; and any thought that the United States might under any circumstance extend official recognition, even in a modified form, to such a villainous despotism is repugnant.

I am [etc.] SAM'L GOMPERS

861.01/623

The Secretary of State to the President of the American Federation of Labor (Gompers)

WASHINGTON, *July 19, 1923.*

MY DEAR MR. GOMPERS: I have your letter of the ninth instant with respect to the grounds upon which the recognition of the present regime in Russia has been withheld.

You refer with just emphasis to the tyrannical exercise of power by this regime. The seizure of control by a minority in Russia came as a grievous disappointment to American democratic thought which had enthusiastically acclaimed the end of the despotism of the Czars and the entrance of free Russia into the family of democratic nations. Subsequent events were even more disturbing. The right of free speech and other civil liberties were denied. Even the advocacy of those rights which are usually considered to constitute the foundation of freedom was declared to be counter-revolutionary and punishable by death. Every form of political opposition was ruthlessly exterminated. There followed the deliberate destruction of the economic life of the country. Attacks were made not only upon property in its so-called capitalistic form, but recourse was had also to the requisitioning of labor. All voluntary organizations of workers were brought to an end. To unionize or strike was followed by the severest penalties. When labor retaliated by passive resistance, workmen were impressed into a huge labor army. The practical effect of this program was to plunge Russia once more into medievalism. Politically there was a ruthless despotism and economically the situation was equally disastrous.

It is true that, under the pressure of the calamitous consequences, the governing group in Russia has yielded certain concessions. The so-called new economic policy permitted a partial return to eco-

nomic freedom. The termination of forcible requisitions of grain has induced the peasantry to endeavor to build up production once more and favorable weather conditions have combined to increase the agricultural output. How far the reported exports of Russian grain are justified by the general economy of the country is at least an open question. Manufacturing industry has to a great extent disappeared. The suffrage, so far as it may be exercised, continues to be limited to certain classes and even among them the votes of some categories count more than the votes of others. A new constitution has just now been promulgated providing in effect for the continuance of the regime of the 1917 *coup d'état* under a new title. The Constitution, it is understood, contains no bill of rights, and the civil liberties of the people remain insecure. There is no press except the press controlled by the regime, and the censorship is far-reaching and stringent. Labor is understood to be still at the mercy of the State. While membership in official unions is no longer obligatory, workmen may not organize or participate in voluntary unions.

The fundamentals of the Russian situation are pretty generally understood in the United States and have made a profound impression upon the thought of our people. We are constantly made aware of this in the Department of State by the various ways in which public opinion makes itself felt in the seat of government. We learn of the hope of America that Russia should have the opportunity of free political expression and that she should be enabled to restore her economic life and regain prosperity and once more to take her place among the nations on the basis of mutual helpfulness and respect. There can be no question of the sincere friendliness of the American people toward the Russian people. And there is for this very reason a strong desire that nothing should be done to place the seal of approval on the tyrannical measures that have been adopted in Russia or to take any action which might retard the gradual reassertion of the Russian people of their right to live in freedom.

To the Department of State, charged with the conduct of our foreign relations, in accordance with the accepted principles of international intercourse, the problem presents itself necessarily in somewhat less general terms. We are not concerned with the question of the legitimacy of a government as judged by former European standards. We recognize the right of revolution and we do not attempt to determine the internal concerns of other States. The following words of Thomas Jefferson, in 1793, express a fundamental principle: "We surely cannot deny to any nation that right whereon our own Government is founded,—that every one may govern itself according to whatever form it pleases, and change these

forms at its own will; and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president or anything else it may choose. The will of the nation is the only thing essential to be regarded." It was undoubtedly this principle which was invoked by the representative of the Department of State, in the statement which you quote as having been made in February, 1921, before the House Committee on Foreign Affairs on the consideration of House Resolution 635, 66th Congress, 3d Session. It must be borne in mind, however, that while this Government has laid stress upon the value of expressed popular approval in determining whether a new government should be recognized, it has never insisted that the will of the people of a foreign State may not be manifested by long continued acquiescence in a regime actually functioning as a government. When there is a question as to the will of the nation it has generally been regarded as a wise precaution to give sufficient time to enable a new regime to prove its stability and the apparent acquiescence of the people in the exercise of the authority it has assumed. The application of these familiar principles, in dealing with foreign States, is not in derogation of the democratic ideals cherished by our people, and constitutes no justification of tyranny in any form, but proceeds upon a consideration of the importance of international intercourse and upon the established American principle of non-intervention in the internal concerns of other peoples.

But while a foreign regime may have securely established itself through the exercise of control and the submission of the people to, or their acquiescence in, its exercise of authority, there still remain other questions to be considered. Recognition is an invitation to intercourse. It is accompanied on the part of the new government by the clearly implied or express promise to fulfill the obligations of intercourse. These obligations include, among other things, the protection of the persons and property of the citizens of one country lawfully pursuing their business in the territory of the other and abstention from hostile propaganda by one country in the territory of the other. In the case of the existing regime in Russia, there has not only been the tyrannical procedure to which you refer, and which has caused the question of the submission or acquiescence of the Russian people to remain an open one, but also a repudiation of the obligations inherent in international intercourse and a defiance of the principles upon which alone it can be conducted.

The persons of our citizens in Russia are for the moment free from harm. No assurance exists, however, against a repetition of the arbitrary detentions which some of them have suffered in the past. The situation with respect to property is even more palpable. The

obligations of Russia to the taxpayers of the United States remain repudiated. The many American citizens who have suffered directly or indirectly by the confiscation of American property in Russia remain without the prospect of indemnification. We have had recent evidence, moreover, that the policy of confiscation is by no means at an end. The effective jurisdiction of Moscow was recently extended to Vladivostok and soon thereafter Moscow directed the carrying out in that city of confiscatory measures such as we saw in Western Russia during 1917 and 1918.

What is most serious is that there is conclusive evidence that those in control at Moscow have not given up their original purpose of destroying existing governments wherever they can do so throughout the world. Their efforts in this direction have recently been lessened in intensity only by the reduction of the cash resources at their disposal. You are well aware from the experiences of the American Federation of Labor of this aspect of the situation which must be kept constantly in view. I had occasion to refer to it last March in addressing the Women's Committee for the Recognition of Russia. It is worth while to repeat the quotations which I then gave from utterances of the leaders of the Bolshevik Government on the subject of world revolution, as the authenticity of these has not been denied by their authors. Last November Zinoviev said, "The eternal in the Russian revolution is the fact that it is the beginning of the world revolution." Lenin, before the last Congress of the Third Internationale, last fall, said that "the revolutionists of all countries must learn the organization, the planning, the method and the substance of revolutionary work." "Then, I am convinced," he said, "the outlook of the world revolution will not be good but excellent." And Trotsky, addressing the Fifth Congress of the Russian Communist Youths at Moscow last October,—not two years ago but last October,—said this: "That means, comrades, that revolution is coming in Europe as well as in America, systematically, step by step, stubbornly and with gnashing of teeth in both camps. It will be long protracted, cruel and sanguinary."

The only suggestion that I have seen in answer to this portrayal of a fixed policy is that these statements express the views of the individuals in control of the Moscow regime rather than of the regime itself. We are unable, however, to find any reason for separating the regime, and its purpose from those who animate it, and control it, and direct it so as to further their aims.

While this spirit of destruction at home and abroad remains unaltered the question of recognition by our Government of the authorities at Moscow cannot be determined by mere economic considerations or by the establishment in some degree of a more prosperous

condition, which of course we should be glad to note, or simply by a consideration of the probable stability of the regime in question. There cannot be intercourse among nations any more than among individuals except upon a general assumption of good faith. We would welcome convincing evidence of a desire of the Russian authorities to observe the fundamental conditions of international intercourse and the abandonment by them of the persistent attempts to subvert the institutions of democracy as maintained in this country and in others. It may confidently be added that respect by the Moscow regime for the liberties of other peoples will most likely be accompanied by appropriate respect for the essential rights and liberties of the Russian people themselves. The sentiment of our people is not deemed to be favorable to the acceptance into political fellowship of this regime so long as it denies the essential bases of intercourse and cherishes, as an ultimate and definite aim, the destruction of the free institutions which we have laboriously built up, containing as they do the necessary assurances of the freedom of labor upon which our prosperity must depend.

I am [etc.] CHARLES E. HUGHES

861.01/668

The Minister in Latvia (Coleman) to the Secretary of State [1]

No. 1458 RIGA, *November 8, 1923.*
[Received November 28.]

SIR: In connection with recent assertions in the press by persons occupying themselves in an endeavor to precipitate the recognition of the so-called Soviet government of Russia by the Government of the United States, I have the honor to submit herewith a report covering certain points which seem to me to be pertinent.

CONTROL OF THE SO-CALLED SOVIET GOVERNMENT BY THE RUSSIAN COMMUNIST PARTY

The so-called Soviet government of Russia is not a government of Russia. It is an institution controlled and dominated by the leaders of the Russian Communist Party, which party embraces an insignificant minority of the population of Russia. This was very clearly brought out in a resolution passed by the Twelfth Congress of the Russian Communist Party, published in Moscow *Izvestia*, No. 86, of April 20, 1923, (translations of extracts enclosed herewith), from which the following passages are quoted:

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[1] This report was prepared by Hugh S. Martin, special assistant to the Minister in Latvia. Copies were sent by the Department on Dec. 29 to the diplomatic representatives in Europe, the Ambassador in Japan, and the Minister in China.

"At the present time the Russian Communist Party directs and must direct the entire political and cultural work of the government, regulates and must regulate the activities of all economic institutions of the republic. The task of the Party is not only to distribute correctly its workers in various branches of the government work, but also to verify and determine the very course of this work. The Party can by no means confine its activities only to general propaganda and agitation work. The dictatorship of the working class can be secured only in the form of a dictatorship of its vanguard—the Communist Party. . . .[2] The reorganized Workman-Peasant inspection and the Central Control Commission can and must become the main lever of the Party for the settlement of the problems mentioned."

The policies of the so-called Soviet government, foreign and domestic, are decided upon by the Communist Party's Political Bureau, commonly known as the Politbureau, consisting of seven members and four alternates. The administrative apparatus of the entire Federation of Soviet Republics is directed and controlled by the Communist Party's Central Control Commission, consisting of fifty members and ten alternates. (See my despatch No. 1262, of September 14, 1923.[3])

Further light upon the control of the so-called Soviet government of Russia by the Russian Communist Party, which fact is so vigorously denied by many ardent pro-Bolshevists residing outside of Russia, is shed by Zinoviev, President of the Petrograd Soviet, Member of the All-Russian Central Executive Committee, Member of the Politbureau of the Russian Communist Party, Member of the Central Committee of the Russian Communist Party and President of the Executive Committee of the Communist International. It is to be presumed, therefore, that Mr. Zinoviev speaks with some degree of authority concerning the relationship between the so-called Soviet government and the Russian Communist Party. In a speech at a meeting of the Organizers of the Collectives of the Petrograd Organization, delivered on May 8, 1923, and published in the Moscow *Pravda* No. 104, of May 12, 1923, (see my despatch No. 859 of May 26, 1923, enclosure No. 7 [3]) in which he summarized the work of the Twelfth Congress of the Russian Communist Party, Zinoviev said:

"The dictatorship of the proletariat is impossible without the dictatorship of its vanguard; that is, without the dictatorship of its Party. . . . It is necessary for the Party to retain the state machinery in its hands, for only by this means can the proletariat wield the dictatorship in a peasant country. . . . Let us imagine, for the sake of argument that the Mensheviks and Social Revolutionaries were legal parties, permitted by our law. What would they do?

[2] All marks of ellipsis indicated throughout this despatch are in the original despatch from the Minister in Latvia.

[3] Not printed.

They would say 'For goodness sake, you have only 400,000 party members, while the whole of Soviet Russia has 120 million inhabitants; and you, a small group of 400,000, want to wield the dictatorship over the whole country. . . . move a little; give a more liberal constitution. In other words, revise the question of the dictatorship of the party.'

"Our Party has the monopoly of being a legal party. The good part of this is that we could silence our adversaries, put them in jail, muzzle them. . . ."

These sentiments of Mr. Zinoviev contrast rather strangely with the statements of many Bolshevist apologists in the United States that a certain degree of political freedom exists in Soviet Russia and that criticisms of the existing regime may be freely and safely indulged in.

A very recent illustration of the accuracy of Zinoviev's assertions in this respect was furnished in the trial, conviction and sentence to two years imprisonment and the deprivation of civil rights for five years of a Russian citizen for having expressed the opinion that Russia should have a Constituent Assembly. (See enclosure No. 10, despatch 1339, October 12, 1923.[4])

Continuing in the same speech Zinoviev says:

"The Party will not yield an inch. It will not permit itself to be pushed away from economic work. The Party will go into every economic detail; it will appoint every economic worker, from the highest to the lowest. The Party strongly objects to the suggestion that politics should be superseded by economics. . . . It is not true that the Party looks askance at the economic workers. The Party cannot do so, because the Party itself nominates them and because everything is from the Party and depends upon the Party. . . ."

If further evidence from Zinoviev be necessary to refute the constantly recurring assertions that the so-called Soviet government of Russia is based upon the will of the Russian people, an extract from an address delivered by him at the Twelfth Congress of the Russian Communist Party might be quoted. (See my despatch No. 810, of May 14, 1923.[4]) Referring to the assertion that there is no national question in Russia, he says:

"This would be correct if there were only Communists in Russia; but there are also a hundred million non-Communist peasants."

Recently an article appeared in an American newspaper purporting to embody an interview with Lomonossov, who was at the time resting himself at Carlsbad, Czechoslovakia. Lomonossov is quoted as saying that Soviet Russia is not engaged in fostering Communist propa-

[4] Not printed.

ganda abroad; that if anything of this sort is going on it must be blamed on the Communist International, with which the Soviet government as such has nothing to do. As an illustration of the lenient attitude of the Soviet regime, Lomonossov states that he personally is not a Communist.

Lomonossov's allegation of Bolshevik leniency concerning economic workers does not exactly coincide with Zinoviev's statements, referred to above.

In the article Mr. Lomonossov is referred to as the "Russian Minister of Railways" but, of course, he is not the "Russian Minister of Railways". So far as I am informed, he is merely a purchasing agent for the Soviets who recently managed to have himself publicly reprimanded in an official decree for having been too generous with certain funds which were entrusted to his care. Without exception, every member of the so-called Soviet government and every member of the governing bodies of the Federation of Socialist Soviet Republics are members of the Russian Communist Party.

But the statement of Lomonossov that the Soviet government as such does not engage in Communist propaganda abroad suggests the consideration of the following points:

(1) the international character of the so-called Soviet government and
(2) the relationship between it, the Russian Communist Party and the Communist International.

International Character of the So-Called Soviet Government and the Soviet Federation

That one of the "fundamental aims" of the so-called Soviet government is to establish the "triumph of Socialism in all countries"; that it seeks to bring about the "international revolt of the workers" and "deliver humanity from the grip of financial capital and imperialism" is very clearly presented in the Constitution of the Russian Socialist Federal Soviet Republic, adopted July 10, 1918, and still in force. The following are excerpts from that Constitution:

"With the fundamental aim of suppressing all exploitation of man by man, of abolishing forever the division of society into classes, of ruthlessly suppressing all exploiters, of bringing about the Socialist organization of society, *and of establishing the triumph of Socialism in all countries*, the Third-All-Russian Congress of Soviets further decrees:

. . . . . .

"The Third All-Russian Congress of Soviets regards the law repudiating the debts contracted by the Government of the Czar, the landlords and the bourgeoisie as the first blow at *international*

financial capitalism; and it expresses its entire confidence that the Soviet government will continue firmly in this direction until the *international revolt of the workers* against the yoke of capitalism shall have secured a complete victory. (Chapter II. Article 3.) (Italics mine.)

In Chapter III, Article 4, the Third All-Russian Congress of Soviets expresses its "firm determination to deliver humanity from the grip of financial capital and imperialism".

That the world-revolutionary aims of the so-called Soviet government have not changed since 1918 is apparent from a perusal of the Constitution of the S.S.S.R., (Federation of Socialist Soviet Republics, which includes the R.S.F.S.R., or Russian Socialist Federal Soviet Republic,) which was adopted on July 6, 1923. The following is quoted from the Constitution:

"The very structure of the Soviet power, *which is essentially international in its class character*, prompts the masses of the Soviet Republics to seek closer union by forming themselves into one Socialistic family, as it were. . . . Access to the Federation is open to all Socialist Soviet Republics, those existing now *as well as those which are bound* to spring up in the future. . . . The new Federation . . . will be a reliable rampart *against world capitalism* and a new decisive step towards the *union of the toilers of all countries in the World Socialist Soviet Republic*.—Part I. (Italics mine.)

"The capital of the Federation of Socialist Soviet Republics shall be the City of Moscow." Chapter XI, Paragraph 72.

The first official act of the superior organs of the Soviet Federation was to issue a proclamation "to all peoples of all governments of the world". This proclamation refers to the structure of the new Federation, stating that it is the "natural ally of all oppressed peoples" and that it desires to "further the interests of the toilers throughout the world". (*Izvestia* No. 156, July 14, 1923. See my despatch No. 1094, August 1, 1923, enclosure 5.[6])

The Moscow *Izvestia*, official organ of the Central Executive Committee of the Soviet Federation and of the All-Russian Central Executive Committee, refers to the Federation as "the grand edifice of the future," the "gates of which are open to the world". The Federation will grow until it becomes the "Soviet United States of Europe" and eventually of "other parts of the world". The Soviet idea "has sunk deep roots in the national masses" and now the time has come to "conquer new ground". (*Izvestia* Nos. 153, July 11, 1923, and 156, July 14, 1923. See my despatch No. 1094, August 1, 1923, enclosures 11 and 12.[6])

[6] Not printed.

RELATIONSHIP BETWEEN THE RUSSIAN COMMUNIST PARTY, THE SO-CALLED SOVIET GOVERNMENT AND THE COMMUNIST INTERNATIONAL

This subject was clearly and adequately dealt with in the Department's memorandum, published in March, 1920, entitled, "Memorandum on the Bolshevist or Communist Party in Russia and Its Relations to the Third or Communist International and to the Russian Soviets," but in view of recent utterances in the press it seems that more recent evidence in the matter might not be superfluous.

While it would be inaccurate to say that the so-called Soviet government as such dictates and controls the activities of the Communist International, it is undoubtedly a fact that the Russian Communist Party dictates and controls the policies and activities of both the so-called Soviet government and the Communist International and that, in promoting the propaganda activities of the Communist International in foreign countries, it does not hesitate to make use of official agencies of the so-called Soviet government.

The "Program" of the Russian Communist Party issued in 1918 remains the program of that Party today. From paragraph XIX of that lucid exposition of Communist faith the following is quoted:

"The program of the Communist Party is the program not only of liberating the proletariat of one country; it is the program of liberating the proletariat of the world, for such is the program of the 'International Revolution.'"

The author of the "Program" from which the above unclouded assertion is taken is N. Bukharin. Mr. Bukharin is a Member of the All-Russian Central Executive Committee, alternate Member of the Politbureau of the Russian Communist Party, Member of the Central Committee of the Russian Communist Party and Member of the Executive Committee of the Communist International.

At the Twelfth Congress of the Russian Communist Party a resolution was unanimously passed (published in Moscow *Izvestia*, No. 87, April 21, 1923, and translation of full text enclosed herewith) from which the following paragraph is extracted:

"The Congress declares to the Communist International that its Russian Section considers that its prime duty now, more than ever, is to help the brotherly parties of other countries in their struggle for Communism under the skilled leadership of the Communist International."

This resolution was offered to the Congress by Kamenev, Vice-President of the Soviet of People's Commissars of the Federation of Socialist Soviet Republics, Vice-President of the Soviet of People's Commissars of the R.S.F.S.R., Member of the Presidium of the Cen-

tral Executive Committee of the Federation, Member of the Soviet of Labor and Defense of the Federation, Member of the All-Russian Central Executive Committee of the R.S.F.S.R., Member of the Politbureau of the Russian Communist Party, Member of the Central Committee of the Russian Communist Party and prominent speaker at the congresses of the Communist International. Mr. Kamenev was recently referred to by a press correspondent as the "kindly, scholarly member of the government". This is the same Kamenev who in an article in the Petrograd *Krasnaya Gazeta* of July 18, 1920, on the day before the convention in that city of the Second Congress of the Communist International, wrote:

"But this international organized army of the progressive proletariat of Europe and America has enormous reserves. These reserves are the people of the Orient, oppressed by colonial imperialistic slavery, who have come to understand clearly and feel deeply that they can be liberated from slavery only with the cooperation and under the flag of the Third International. *The Third International is the General Staff of this world army, which has started to move and is marching to victory.* (Italics mine.)

"Yes, this is a conspiracy. But it is a conspiracy that cannot be crushed; one in which millions participate, which is supported by tens of millions—a conspiracy in which the reason of history finds embodiment and which, therefore, is destined to triumph in the end."

Steklov (Nahamkhes), Member of the Russian Communist Party, Member of the All-Russian Central Executive Committee and editor of the *Izvestia*, official organ of the Central Executive Committees of the R. S. F. S. R. and the Federation, in an article entitled, "The Soviet Republic and the Third International," published in the *Izvestia*, No. 252, of November 7, 1922, and forwarded to the Department in despatch No. 99, of November 27, 1922,[7] says:

"It (the Communist International) was founded in the second year of the Soviet Republic and on the formal initiative and under the strong influence of the Russian Communist Party. . . .

"The close organic and spiritual connection between the Soviet Republic and the Communist International cannot be doubted. And even if this connection had not been admitted many times by both sides, it would be clear to everybody as an established fact. . . .

"This connection is not merely of a spiritual, but also of a material and palpable character. . . .

"The mutual solidarity of the Soviet republics and the Communist International is an accomplished fact. In the same degree as the existence and the stability of Soviet Russia are of importance to the Third International, the strengthening and the development of the Communist International is of great moment to Soviet Russia."

[7] Not printed.

Although Mr. Steklov has been editor of the official organ of the so-called Soviet Government for several years and should have a fair knowledge of political sentiment concerning the Russian Communist Party and its interlocking institutions, the so-called Soviet government and the Communist International, he is in error in the above statement that "even if this connection had not been admitted many times, it would be clear to everybody as an established fact". This "established fact" has obviously not succeeded in penetrating the minds of certain pro-Bolsheviks living outside of Russia.

Zinoviev, whose official positions in the so-called Soviet government, the Russian Communist Party and the Communist International have been enumerated above, stated on May 8, 1923, in the same Petrograd speech previously referred to (see my despatch No. 859, of May 26, 1923,[8]):

"We are asked the question—'Will the dictatorship of the Party last forever?'

"No, not forever. Our complete victory in every country will mean abolition of the state, abolition of compulsion. . . . The Party is no aim in itself; it is only a means. *It is the lever to overturn the whole world, to built it up anew.*" (Italics mine.)

In connection with the relationship between the institutions of the Communist Interlocking Directorate, it is interesting to note that various official publications of the Communist International, the Russian Communist Party and the Red International of Trades Unions are being published by the State Publishing Office of the so-called Soviet government.

Propaganda Activities of the Interlocking Directorate

It has been frequently claimed by adherents of the Soviet regime that, while the Bolsheviks may have engaged in propaganda activities directed against capitalistic governments in former times, when such capitalistic governments were virtually at war with Soviet Russia, they have long since ceased such activities and are devoting their attention to their own internal affairs.

As a matter of fact, it is doubtful if the Interlocking Communist Directorate has ever been more intensively engaged in revolutionary propaganda abroad than it has been for the past year. Its efforts have been particularly noticeable in Germany, Bulgaria, Poland, Spain, Finland, Turkey, Esthonia, Latvia, England, Persia, Afghanistan, India, China and Japan.

While it is claimed that the so-called Soviet government as such does not engage in such propaganda, the fact remains that in practically every country where the so-called Soviet government has estab-

[8] Not printed.

lished diplomatic, consular, trade or Red Cross missions, in those same missions and through those same representatives there have been established propaganda agencies of the Interlocking Directorate.

The Department no doubt has ample evidence on this point. In so far as this Legation is concerned the Department has already been furnished with complete and ample evidence that the Soviet diplomatic, consular and trade agencies in Esthonia and Latvia have been from the very beginning actively engaged in conducting propaganda aimed at the overthrow by force of these two governments and the establishment of Communist regimes.

While it may be taken as a matter of course that the Soviet Mission in Lithuania has engaged in similar activities, the Lithuanian authorities have thus far been reluctant to make such charges. This may be accounted for by the fact that Lithuania maintains a closer relationship with Soviet Russia than do the other Baltic republics. Under date of August 17, 1923, Consul Edwards at Kovno reported as follows:

"With reference to Soviet propaganda carried on in Lithuania and aimed at overthrowing the existing order, the officials are somewhat reticent. It is freely admitted that there has been considerable propaganda of this kind, but there is hesitancy in charging the Soviet Russian government with direct responsibility, or in expressing more than a vague suspicion that the Soviet representative or members of his staff have been engaged in it."

The Red International of Trade Unions

Still another agency of the Interlocking Directorate, which is being used extensively for propaganda purposes abroad, is the Red International of Trade Unions, commonly referred to as the Profintern.

In order to show the intimate connection between the Profintern and other agencies of the Interlocking Directorate the following excerpts are quoted from the official publication of the Communist International "Annual of the Comintern" published in 1923.

"Session of the Small Bureau of the Comintern July 26, 1921:

"The Small Bureau appoints as temporary representatives of the Executive Committee of the Communist International to the Executive Committee of the International of Red Trade Unions—Comrades Bukharin, Hekkert and Souvarin."

"Session of the Small Bureau of the Executive Committee of the Comintern, August 1, 1921:

"With a view to establishing closer contact between the Communist International and the International of Red Trade Unions, a Commission consisting of Comrades Hekkert, Lozovsky, Souvarin, Radek and Andrechin is appointed and instructed to submit within

three days a detailed project concerning the subject. Comrade Razoczy is instructed to form this Commission."

"Session of the Presidium of the Executive Committee of the Communist International, September 14, 1921:

"The project submitted by Comrade Zinoviev concerning the organization of the Central Famine Relief Commission was discussed. Comrade Zinoviev's project was approved. The Central Commission in Moscow consists of Comrades Humbert, Droze, Popov, Radek, three representatives of the Red International of Trade Unions and one representative of the Executive Committee of the International of Communist Youth."

"Session of the Executive Committee of the Communist International, September 14, 1921:

Speaking of the question of mutual representation of the Small Bureaus (Presidiums) of the Communist International and the International of Red Trade Unions, Zinoviev said: "Our Small Bureau conducts important preliminary work; the same is also the case with the International of Red Trade Unions. In order to establish closer contact we want to have mutual representation not only in the Executive Committees, but also in the Large Bureaus. For this purpose it will be sufficient if each organization sends one member." The motion was accepted.

From the official publication of the Red International of Trade Unions, entitled, "Second Congress of the Red International of Trade Unions, Moscow, November 19–December 2, 1922," (published by the State Publishing Office of the so-called Soviet Government), the following declaration of the principal delegations of the Congress is quoted:

"Taking into consideration:—

"1. That it is the task of the Red International of Trade Unions to rally all revolutionary laborers with a view to joining efforts in combatting capitalism, and in order to establish the dictatorship of the proletariat;

"2. That this goal may be attained only if all fighters for social revolution will be thoroughly imbued with the spirit of Communism;

"3. That the ultimate victory of Communism is possible only on an international scale, *for which purpose closest contact and coordination between the Communist International and the Red International Trade Unions are necessary;* (Italics mine.)

"4. That there are groups of laborers of revolutionary-syndicalist tendencies who sincerely wish to establish a united front with the Communists and who think in this connection that the mode of mutual representation between the Communist International and the Red International of Trade Unions, as established at the First Congress, is not in keeping with the traditions of the labor movement in their respective countries;

"5. That the United Confederation of Labor in France, adhering to this point of view, has in the most decided manner declared itself in favor of active 'fighting' cooperation between the Communist Inter-

national and the Red International of Trade Unions, as well as of timely participation in all offensive and defensive actions against capitalism.

"6. The delegations of trade unions of Russia, Germany, Italy, Poland and Spain, while professing the unconditional necessity of the Communist parties taking the lead in their respective countries, suggest nevertheless that the revolutionary laborers of France be met half way, and the proposal of the United Confederation of Labor of France be accepted, so that at this Congress the revolutionary elements of the international trade union movement may be gathered together, strengthened and fortified, under the banner bearing the inscription—'Destruction of capitalism and establishment of the dictatorship of labor!'"

The two principal leaders of the Red International of Trade Unions are Lozovsky and Tomsky. The former signs all the proclamations of the Profintern as "General Secretary". He was the presiding officer at the last Congress of the Profintern. Apparently there is no President.

Aside from being presiding officer and General Secretary of the Red International of Trade Unions, Lozovsky is a member of the Central Executive Committee of the R.S.F.S.R., a Member of the Russian Communist Party, a Member of the Presidium of the All-Russian Central Soviet of Trade Unions and a prominent speaker at Congresses of the Communist International.

Tomsky is a Member of the Executive Committee of the Red International of Trade Unions, a Member of the Presidium of the Central Executive Committee of the S.S.S.R., Member of the Presidium of the All-Russian Central Executive Committee, Member of the Politbureau of the Russian Communist Party, Member of the Central Committee of the Russian Communist Party and President of the All-Russian Central Soviet of Trade Unions.

It is, therefore, clear that the Red International of Trade Unions is working in intimate cooperation with the Communist International, which Steklov says is organically and spiritually connected with the so-called Soviet government.

It is noticeable that during the past year the Red International of Trade Unions and its Russian constituency, which is embraced in the All-Russian Central Soviet of Trade Unions, have been used more extensively than heretofore for propaganda purposes abroad.

On June 22, 1922, Tomsky, as President of the All-Russian Central Soviet of Trade Unions sent the following telegram to the striking transport workers of Barcelona:

"The Russian proletariat follows with interest the heroic struggle of the Barcelonian proletariat, which is continuing in spite of terror and repression.

"The All-Russian Central Soviet of Trade Unions encourages and stimulates you to continue the struggle and sends you fifty thousand pesetas as a token of solidarity.

"Long Live Proletarian Spain!

"Long Live the International Solidarity of Workmen!

(Signed) Tomsky, President of the All-Russian Central Soviet of Trade Unions."

(Above telegram was published in Moscow *Pravda*, No. 136, of June 23 [*21*], 1923, and translation was forwarded to the Department in my despatch No. 1054, of July 18, 1923.[9])

Tomsky's official positions in the so-called Soviet government, the Russian Communist Party and the Red International of Trade Unions have been enumerated above.

In the Moscow *Pravda* No. 185, of August 19, 1923, the following proclamation was published: (Translation forwarded to Department in my despatch No. 1308, of September 27, 1923.[9])

"To the Chairman of the All-German Central Soviet of Factory Committees:

Today's extraordinary session of the Executive Bureau of the Red International of Trade Unions decided to address an appeal to the workmen of all countries to render moral and material support to the German workmen, who are struggling against reaction. The executive Bureau of the Red International of Trade Unions has allotted one million gold marks for the support of the workmen who have suffered from the repression of the capitalists and the German bourgeois government on account of participation in the late strike movement.

(Signed) Lozovsky—General Secretary of the Red International of Trade Unions."

Lozovsky's connections with the so-called Soviet government, the Russian Communist Party, the All-Russian Central Soviet of Trade Unions and the Communist International have been noted above.

In the proclamation which follows the above (published in same paper and forwarded in same despatch) the Executive Bureau of the Red International of Trade Unions calls upon all organizations that adhere to its principles and "all class-conscious workmen to come promptly to the aid of the struggling workmen of Germany". It continues: "We must not permit the vanguard of the revolutionary movement to be wiped out. . . . The Red International of Trade Unions, in the name of the international revolutionary movement of trade unions allots one million gold marks for the support of the locked out and persecuted workmen of Germany. . . . Long live proletarian Germany! Long live the social revolution! Long live international solidarity!"

[9] Not printed.

On August 27, 1923, the Communist International and the Red International of Trade Unions issued a joint proclamation "To the Workmen and Women Workers of all Countries," calling upon them to aid the German proletariat. The following are excerpts from it:

"Comrades! Proletariat of all countries! We call upon you to raise your arm in defense of the German proletariat. At mass meetings all over the world, direct the attention of the world's proletariat to the events in Germany; collect money everywhere for the support of the strikers. . . . Long live the international solidarity of the proletariat! Long live help to the German proletariat! Long live the Communist International!"

The proclamation was signed by the Executive Committee of the Communist International and the Executive Bureau of the Red International of Trade Unions.

Activities of the Communist International

It would require volumes to include all the pronouncements and proclamations issued by the Communist International. All of the more important proclamations issued during the past year have been forwarded to the Department. More important among them are the proclamations to the proletariat of Germany, Bulgaria, Finland and Japan.

The following extracts are taken from a proclamation to "the Bulgarian workers and peasants," (published in Moscow *Pravda*, No. 143, of June 29, 1923, and forwarded to Department in my despatch No. 1054, of July 18, 1923.[10]) While it is addressed primarily to the Bulgarians, it includes injunctions to the proletariat of various other countries and, finally, in its enthusiastic fervor, includes the proletariat "of all countries."

"Rise up against the government which has perpetrated the white-guard revolution in Bulgaria! Strike for a workman-peasant government! . . .

"Bulgarian peasants! . . . The new government is our deadly foe. It must be crushed. . . . Be banded together. Close up the ranks! Summon them to the fight for a workman-peasant government!

"Peasants of Macedonia! . . . You must unite in your own interests with the Bulgarian proletariat. . . .

"Workmen of Czechoslovakia! Workmen of Austria and Germany! The success of the Bulgarian fascisti will encourage the same elements in your country.

"Attention! . . . Concentrate all your forces to create a union of the poorest elements of the peasants and workmen proletarian classes and resist in every way the venal creatures of Capitalism!

[10] Not printed.

"Proletariat of all countries! Follow attentively events in Bulgaria. . . . Mobilize the masses against the new government of murderers and criminals!

"Long Live the Solidarity of the International proletariat in the Struggle Against the Menace of Fascism!"

The proclamation is signed by the Enlarged Plenum of the Communist International.

The Department is, of course, well aware of the fact that the principal organizer of the recent Communist outbreaks in Bulgaria, which resulted in many bloody encounters, was Kolarov, a prominent official of the Communist International, which Steklov assures us is organically and spiritually connected with the so-called Soviet government.

In a proclamation published in the Moscow *Izvestia*, No. 180, of August 12, 1923, and forwarded to the Department in my despatch No. 1243, of September 13, 1923,[10a] the Communist International pays its respects to the Finnish Government. The following are excerpts from the proclamation, which is entitled, "Down with the White-Guard Regime in Finland!"

"Comrades: The serious onslaughts of the Finnish Government upon the legal 'mass' party of the labor classes deserves the serious attention of the international proletariat.

. . . . . .

"In point of organization the Finnish Labor Party was never a part of the Communist International and much less, of course, a part of the Russian Communist Party. . . . Of course, it was a party that sincerely sympathized with us, *and that is why our underground (illegal) Finnish Section* (italics mine) had no reason to take up a hostile attitude towards the Labor Party. The suppression of that legal party of the Finnish labor classes will now, of course, as a matter of necessity, compel the illegal Finnish Communist Party to take into its hands the entire political management of the proletarian class war. The Communist International is now going to do what it never did in Finland before: it enjoins the struggling Finnish proletariat to serry its ranks and to rally solely and only around the revolutionary banner of the Communist Party.

"At the same time the Communist International calls upon the proletariat of all countries to condemn the white-guard regime in Finland. . . . Extend your hand of friendship to the brave Finnish comrades. Let the laborers of Finland know that they are not carrying on the fight single-handed, but that they are supported by millions of brothers in arms until the hour of final victory over capitalistic oppression.

"Down with the rulers of Finland, the murderers of the labor classes!

[10a] Not printed.

"Long live the proletarian revolution!"

The proclamation is signed by the Executive Committee of the Communist International.

Taking advantage of the recent catastrophe in Japan, the Soviet steamship *Lenin* was despatched to Japan with a cargo of Communist agitators and relief supplies for the suffering "Japanese laborers". The Japanese Government refused to permit either the supplies or agitators to be landed.

Following this the Communist International issued one of its typical proclamations. It was published in the Moscow *Izvestia* [Petrograd *Pravda*], No. 216, of September 25, 1923, and a translation forwarded to the Department in my despatch No. 1366 [*1365*], of October 12, 1923.[11] The following are excerpts from the proclamation, which is addressed "To the Laborers of Japan. To the Laborers of all Countries:"

"The terrible calamity which has visited Japan has shaken the hearts of all who are able to feel the griefs of others. . . . The victims of the catastrophe are not yet buried, but already the imperialist government of Japan has decided to show to the whole world that the class war never stops in capitalistic society, be the circumstances what they may. (Then follows an account of the arrests and alleged executions of Japanese Communists.)

"The imperialist government of Japan, in order to emphasize that it remains a 'firm authority', refuses steamer loads of food supplies sent to the Japanese laborers. And all this with the cynical allegation that, together with the food supplies, there is Communist literature on board the vessels.

"The Communist International invites the Japanese laborers, whatever their political creed may be, to create a United Committee of Action, to line up in a united front against the imperialist government. Do not let the imperial government of Japan enjoy one single hour of quiet. Let the just wrath of the masses of toilers of Japan find its expression in organized struggle against the gang which rules the country. . . .

"The Japanese laborers must form a powerful Communist Party and strong trade unions, which will be able to lead the toilers in serried ranks to the battle for the overthrow of the bourgeois government and the establishment of a workman-peasant government.

Executive Committee
of the Communist International."

It is doubtful if the Interlocking Directorate of Communism, in seeking to take advantage of the unprecedented catastrophe in Japan and the abnormal state of mind of the Japanese people, to instigate the overthrow of the Japanese Government by force, has ever perpetrated a more abhorrent act.

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[11] Not printed.

It is not deemed necessary to refer here to further illustrations of Communist proclamations.

Soviet Red Cross

Still another agency which the Interlocking Directorate employs to conduct revolutionary agitation abroad is the so-called "Russian Red Cross Society," which is an official agency of the so-called Soviet government.

The answer of the Bulgarian Minister for Foreign Affairs, Kalfov, to the Soviet Commissar for Foreign Affairs, in reply to the protest of the so-called Soviet government against the treatment in Bulgaria of certain Soviet citizens, contains the following statements: (Full reply published in Moscow *Izvestia*, No. 193, August 29, 1923, and translation forwarded to Department in my despatch No. 1308, of September 27, 1923.[12])

"The Bulgarian Government would like to know that under the mask of this highly humanitarian cause (repatriation) no political propaganda is carried on against the existing order in Bulgaria, such as took place during the residence of the former Mission of the Russian Red Cross. . . . You know yourself that the departure of Mr. Koretsky did not take place on our initiative. If the Bulgarian Government accelerated his departure, it was because he dared to publish a calumny against the Bulgarian Government in the press and because he agitated publicly against the existing order in the country, the hospitality of which he and his Mission (Red Cross) enjoyed in the course of a whole year. We reject the insinuation attached to us that we tried to use some fake documents to prove the disloyal attitude of Mr. Koretsky and several of his comrades. The archives of the Russian Red Cross were placed under seal and were later examined in the presence of Dr. Nansen's delegate.

"In your telegram you accuse the Bulgarian Government of conducting a campaign of calumny against Russia. I can assure you that your information in this connection is incorrect. The main principle of the Bulgarian Government remains the most strict non-interference in the domestic affairs of any foreign country. Therefore, the Bulgarian Government thinks that it is its right to expect the same from another country. *Unfortunately it was very much mistaken as far as the Soviet government is concerned.* It is sufficient to remind you of the recent statement of Mr. Zinoviev and the resolutions passed by the Communist International against the present regime in Bulgaria to convince you that the above accusations would be more founded if they were made by us against your government."

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[12] Not printed.

Attitude of Bolshevik Leaders

In addition to the direct participation of Soviet diplomatic, consular and trade representatives in revolutionary propaganda in the countries to which they are accredited, it is of interest to note the present attitude of certain of the outstanding Bolshevik leaders as revealed by their published statements.

In the course of a speech delivered at the Agricultural Exposition in Moscow on September 16, (Moscow *Pravda*, No. 210, September 18, 1923, translation forwarded in my despatch No. 1333, October 1, 1923 [13]), Chicherin said:

"We must not forget that if the extreme reactionaries should usurp political power in Germany, finding in this the support of political reaction throughout the world, this would constitute a new menace to ourselves, and we must, therefore, be prepared against new dangers and new strife. . . . we must not lose sight of the fact that at a moment's notice we may be called upon to defend all the achievements of the revolution which the workman-peasant regime guarantees us. We must be on the alert, we must watch the extreme reaction in Germany and try to penetrate its ruses and intrigues. Not for a moment must we forget that we are the only Red Republic, or rather Federation of Republics. . . . We can safely say that we have already conquered for ourselves the new regime—the regime of emancipated labor—and that we have already entered upon that era when *we are to be the vanguard of the masses of toilers*, and when, soon perhaps our regime will become the *regime of all countries*." (Italics mine.)

This is rather significant as coming from Chicherin, the Commissar for Foreign Affairs, who is frequently referred to as one of the most conservative of the Communist leaders and is probably the ablest diplomat in the Soviet service.

Karl Radek has been particularly active during recent months in connection with the situation in Germany. Needless to say, he is one of the propaganda specialists of the Interlocking Communist Directorate, is a Member of the Central Executive Committee of the so-called Soviet government, Member of the Central Committee of the Russian Communist Party and Member of the Executive Committee of the Communist International.

In an article published by him in the Moscow *Pravda*, No. 171, of August 1, 1923, translation of which was forwarded to the Department in my despatch No. 1160, of August 18, 1923,[13] he says:

"The crisis of the German bourgeoisie is imminent. . . . Unparallelled problems arise for the German Communist Party. . . .

[13] Not printed.

"The seeds sown by our Party during the Great War are yielding a rich harvest. . . . The united front of the workmen is steady. . . .

"The main task of the Party consists in gaining control over and in organizing the working classes around its banner. . . . We have first of all to multiply many hundreds of times our agitation activity, to create a condition of Communist conscience and mind. Our past activity was mere trifling. Our voice must be heard by all workmen. Our number is small, only 300,000 men. It ought to be 3,000,000. . . . 70,000 Bolsheviks were able to overthrow the unorganized Russian bourgeoisie. This will not be enough for us. We need at least one million. . . . We do not want to be an election factor. We want to be a powerful tug of war with *strongly welded proletarian fighting battalions.*

"We intend to win the war. We do not aim only at the seizure of power, but we aim at the reorganization of society on a socialist basis. This will mean victory."

Writing in the Moscow *Izvestia*, No. 195, of August 31, 1923, (see my despatch No. 1308, of September 27, 1923 [14]) Radek says:

"Neither Soviet Russia nor the laboring masses of Europe can remain indifferent if international capital attempts to lay its hand on Germany."

On September 17, 1923, in an address to the cadets of the Moscow Military Training Schools upon the occasion of their promotion to the rank of "Red Commanders," Radek said: (Moscow *Izvestia*, No. 211, September 19, 1923. See my despatch No. 1333, of October 1, 1923.[14])

"The coming revolution in Germany will be only a part of the series of large world conflicts that are approaching, and the cause of these conflicts is the complete bankruptcy not only of the German bourgeoisie, but of the bourgeoisie of all Europe, and, if we look at the question from a more elevated point of view, the bankruptcy of the world bourgeoisie. . . .

"Red Commanders, you are not accustomed to make many words when an order is given. Nor need I make many words to explain to you the actual situation. Go back to the army and teach them not only things military, but broaden their minds. Be not merely military commanders, but also bearers of the idea that, when the hour comes and there will be no other way for us, the workman-peasant will respond to the call of the Soviet government with the words: 'We are ready!'"

Zinoviev, who, together with Radek and other prominent Bolsheviks, has been busying himself in an endeavor to rouse the Russian proletariat to lend a helping hand to the proletariat of Germany, in a speech before the Petrograd Soviet, of which he is President,

[14] Not printed.

(which was published in Petrograd *Pravda*, No. 190, August 25, 1923; see my despatch No. 1308, of September 27,[16]) said:

"Events are approaching when a real socialistic revolution will actually begin. The German revolution is the beginning of a revolution all over Europe!"

Official press notices of numerous meetings and demonstrations of soviets, workmen and peasants which the Communists have staged throughout Russia in favor of the German proletariat, at which subscriptions of money and food supplies have been raised for the purpose of furthering the German Communist revolution, have been forwarded to the Department in my despatches Nos. 1365, of October 12, 1923,[16] 1308, of September 27, 1923,[16] and 1390, of October 23.[16]

In opening the Twelfth Congress of the Russian Communist Party on April 17, 1923, (Moscow *Pravda* No. 84, April 18, 1923,) Kamenev referred in the beginning of his address to the illness of Lenin, stating that his condition was not hopeless and that they trusted that he would soon be able to "seize once more the helm of world revolution".

One of the most conspicuous figures of Bolshevism today is Trotsky, the so-called "War-Lord of Russia."

In a speech at the Sixth All-Russian Congress of Metal Workers, reported in the Moscow *Pravda*, No. 136, of June 21, 1923, Trotsky said:

"The process of freeing enslaved peoples is slower than one would expect. The near future will be only a transitory state in the development of the world. Our Army which we are re-forming is not growing weaker, but stronger. . . . We will have in the future an army bearing a militia character. Part of it, the commanding staff, the political and administrative organs, will be of a permanent nature, but the soldiers will be called into the ranks only from time to time for instruction.

"Aviation will be the backbone of our efforts to increase the power of the Army. I should like to advise you to build, as an answer to every insult and humiliation, to every ultimatum, etc., a new squadron of airships and aeroplanes and call them 'Ultimatum'. We are building one such squadron already. To the revolution in Bulgaria our answer should be new aeroplanes—and they should be called 'Red Bulgaria'. In such a way, constructing as an answer to every new blow of the bourgeoisie new aeroplanes, we can hope soon to put an end to these attacks."

Thus Trotsky considers that a revolution in Bulgaria should necessitate the building by the Soviets of new aeroplanes.

Trotsky, who has been President of the Revolutionary Military Soviet of the Republic (of the R.S.F.S.R.) has now been made Presi-

[16] Not printed.

dent of the Revolutionary War Council of the Federation. He is likewise Commissar of War and Navy of the so-called Soviet government; Commissar of War and Navy of the Federation; Member of the Soviet of Labor and Defense of the Federation; Member of the Central Executive Committee of the so-called Soviet government; Member of the Politbureau of the Russian Communist Party; Member of the Central Committee of the Russian Communist Party; Member of the Presidium of the Communist International; Alternate Member of the Executive Committee of the Communist International and Honorary President of the All-Russian Central Soviet of Trade Unions, thereby holding an official position in every branch of the Communist Interlocking Directorate.

In a signed article in the Moscow *Pravda*, No. 215, of September 23, 1923, (see my despatch No. 1365 of October 12, 1923,[17]) Trotsky gives his views concerning how revolutions are made. This is the same Trotsky who in a speech to a Conference of Textile Workers in October, 1922, said: (Moscow *Pravda* No. 230, October 12, 1922)—

"Yes, we make concessions to capital, because it is still strong; but we make them in order to crush it."

Later in the same month in addressing the Fourth Congress of the Third International (Moscow *Izvestia* No. 238, October 21, 1922) Trotsky said:

"Our Party gave an ideal example in Russia of how the governmental apparatus and the power must be seized. . . . The proletariat of the Western countries must overcome great difficulties before it seizes the power. . . . We must improve our knowledge in every branch, specialize in them and become well trained when the world revolution breaks out."

In the same speech he said:

"The New Economic Policy means a small retreat on our part, but we have occupied instead strong new positions."

A more recent significant statement of Trotsky's is found in his address to the Twelfth Congress of the Russian Communist Party, April 17–26, 1923. (See my despatch No. 810, of May 14, 1923.[17]) Speaking of the New Economic Policy, he said:

"Comrades, the New Economic Policy has been inaugurated in earnest and for a long time, but not for good. We have started it in order to defeat it with its own weapons. . . . Our principle of plan work once extended to the market will absorb and destroy the market."

[17] Not printed.

These recent utterances of Trotsky are quite characteristic of the Trotsky of old, who wrote in the *Izvestia* of January 10, 1919, under the title "Military Specialists in the Red Army:"

"While dispersing, arresting and shooting saboteurs and conspirators, the proletariat says: 'I shall break your will, because my will is stronger than yours, and I shall force you to serve me.'"

And in his "Peace Program," published at Petrograd in February, 1918:

"If in awaiting the imminent proletarian flood in Europe, Russia should be forced to conclude peace with the present day governments of the Central Powers, it would be a provisional, temporary and transitory peace, with the revision of which the European Revolution will have to concern itself in the first instance. Our whole policy is built upon the expectation of this revolution."

Conclusion

From the foregoing it will be seen that the Communist Interlocking Directorate consists of four principal intimately coordinated institutions—the Russian Communist Party, the Communist International, the Red International of Trade Unions and the so-called Soviet government.

The dominating institution of the group is the Russian Communist Party. The supreme authority of that Party is the Politbureau of the Central Committee.

The seven members of the Politbureau are: Lenin, Trotsky, Kamenev, Zinoviev, Tomsky, Rykov and Stalin (not including the four alternates).

(Note: The list of members of the Politbureau was received by me from what I consider a thoroughly reliable source. Later on the identical list was published in a despatch from Walter Duranty to the *New York Times*. Mr. Duranty subsequently informed me that he had obtained the list of members from the Private Secretary to Kalinin, who is President of the All-Russian Central Executive Committee and himself an Alternate Member of the Politbureau.)

Considering that Lenin is entirely incapacitated, there are now six members. The world-revolutionary sentiments of four of those six—Trotsky (Braunstein), Zinoviev (Apfelbaum), Kamenev (Rosenfeldt), and Tomsky (Honigberg), are illustrated in this report.

It is interesting to note that these four dominating figures of the Interlocking Directorate of Communism represent the Army and Navy (Trotsky), the Communist International (Zinoviev), the Red International of Trade Unions (Tomsky), and the so-called Soviet government (Kamenev).

In the foregoing report I have confined myself solely to information of a public nature. Reference to confidential reports received from reliable sources, which have been transmitted to the Department in previous despatches, would, of course, produce further indisputable proof of the present international activities of the Interlocking Directorate of Communism.

To deny the assertion that the so-called Soviet government is intimately connected with the Communist International is to repudiate the published statement of one of the principal spokesman of Bolshevism, Steklov.

To deny that the Russian Communist Party dominates and controls the so-called Soviet government is to repudiate the statements of Zinoviev and the resolutions of the Twelfth Congress of the Party.

To deny that there is a working connection between the Communist International and the Red International of Trade Unions is to repudiate the official records published by those bodies.

To deny that the Communist International and the Red International of Trade Unions are indulging in international revolutionary propaganda aimed at the overthrow of the existing order is to repudiate their published proclamations.

And yet, from a perusal of recent articles, interviews and press reports, one is struck with the remarkable paradox of a group of individuals who, in their enthusiastic defense of the Soviet regime, are denying the public statements of the very persons whose interests they are seeking to promote.

I have [etc.] F. W. B. COLEMAN

[Enclosure 1]

Resolution of the Twelfth Congress Concerning the Report of the Central Committee of the Russian Communist Party [19]

. . . The Twelfth Congress declares that the resolutions of previous Congresses which concern the definite division of work between partisan and Soviet institutions, the better specialization of the economic and administrative workers in every sphere of activities, and the strict personal responsibility for each commission entrusted to a worker shall be strictly observed. The Twelfth Congress confirms the resolution of the Eleventh Congress which says "that Party organizations shall settle economic questions themselves only in cases when such questions actually demand decision of principle by the Party itself". But the Congress warns against a too liberal interpretation of the resolutions mentioned, which might cause certain political frictions in the Party. At the present time the Russian

[19] Extracts translated from Moscow *Izvestia*, no. 86, Apr. 20, 1923.

Communist Party directs and must direct the entire political and cultural work of the government, regulates and must regulate the activities of all economic institutions of the Republic. The task of the Party is not only to distribute correctly its workers in various branches of the government work but also to verify and determine the very course of this work. The Party now can by no means confine its activities only to general propaganda and agitation. The dictatorship of the working class can be secured only in the form of a dictatorship of its vanguard—the Communist Party. Systematically drawing into the economic and the general government work all that is valuable among the non-partisan workmen and peasants, the Party can not at the same time forget that the gravest responsibility for the work of the economic and the general government institutions rests with the Russian Communist Party since it has been called by history to be the real leader of the dictatorship of the working class. Closer to economics, still more attention, leadership and assistance to the economic institutions,—that is the slogan of the Party for the near future . . .

. . . The Congress states that the Central Committee of the Party has not for a minute closed its eyes to the existing dangers of degeneration of the individual germ cells of the Party. Precisely this fact permitted the Committee to take the necessary measures in time.

The re-organized Workman-Peasant Inspection and the Central Control Commission can and must become the main lever of the Party for the settlement of the problems mentioned.

Approving the plan of radical reorganization of the Workman-Peasant Inspection and the Central Control Commission, the Congress rests assured that the necessary improvement of the central apparatus of government control and party control with the necessary contact between them and with a systematic coordination of their efforts will make it possible to attain these two aims: (1) to begin a decisive improvement of the government apparatus and (2) to secure the Party from the danger of deviating its policy and the actual secession of separate groups of workers from the Party as a whole . . .

[Enclosure 2]

Twelfth Congress of the Russian Communist Party: Resolutions [20]

Resolutions proposed by the delegations, supported by the Presidium and read by Comrade Kamenev have been unanimously passed.

(*a*) The XII Congress of the Russian Communist Party entirely

[20] Translation from Moscow *Izvestia*, no. 87, Apr. 21, 1923.

approves the actions of the delegation of the Russian Communist Party at the Executive Committee of the Communist International.

(*b*) The Russian Communist Party understands perfectly all the difficulties which the working classes of a number of countries have to undergo in connection with the growth of Fascism and the wild repressions of the bourgeois reaction which has fallen on the head of the laborers.

(*c*) The Congress declares to the Communist International that its Russian Section considers that its prime duty now more than ever is to help the brotherly parties of other countries in their struggle for Communism under the skilled leadership of the Third International.

711.61/71 : Telegram

The Soviet Commissar for Foreign Affairs (Chicherin) to President Coolidge

No. 613 Moscow, *December 16, 1923.*

[Received December 17.]

It has been the constant endeavor of Soviet government to bring about resumption of friendly relations with United States of America based upon mutual trust. With this end in view it has repeatedly announced its readiness to enter into negotiations with American government and to remove all misunderstandings and differences between the two countries. After reading your message to Congress [21] Soviet Government sincerely anxious to establish at last firm friendship with people and government United States informs you of its complete readiness to discuss with your government all problems mentioned in your message, these negotiations being based on principle mutual non-intervention internal affairs. Soviet government will continue wholeheartedly to adhere this principle expecting same attitude from American government. As to question of claims mentioned your message Soviet government is fully prepared to negotiate with view its satisfactory settlement on assumption that principle reciprocity recognized all round. On its part Soviet government is ready to do all in its power so far as dignity and interests of its country permit to bring about the desired end of renewal of friendship with United States of America.

People's Commissary for Foreign Affairs
TCHITCHERIN

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[21] Vol. I, p. VII.

711.61/71 : Telegram

The Secretary of State to the Consul at Reval (Quarton)

WASHINGTON, *December 18, 1923—12 noon.*

Hand to the Soviet representative at Reval for communication to Tchitcherin the following:

"With respect to the telegram to President Coolidge from Tchitcherin of December 16th, the Secretary of State today made the following statement in reply: 'There would seem to be at this time no reason for negotiations. The American Government, as the President said in his message to the Congress, is not proposing to barter away its principles. If the Soviet authorities are ready to restore the confiscated property of American citizens or make effective compensation, they can do so. If the Soviet authorities are ready to repeal their decree repudiating Russia's obligations to this country and appropriately recognize them, they can do so. It requires no conference or negotiations to accomplish these results which can and should be achieved at Moscow as evidence of good faith. The American Government has not incurred liabilities to Russia or repudiated obligations. Most serious is the continued propaganda to overthrow the institutions of this country. This Government can enter into no negotiations until these efforts directed from Moscow are abandoned.'"

HUGHES

Press Release Issued by the Department of State, December 19, 1923 [22]

The Department of State made public today the text of instructions given by Zinoviev, President of the Communist International and President of the Petrograd Soviet, to the Workers' Party of America, the Communist organization in the United States. The Department of Justice has assured the Department of State of the authenticity of these instructions. The Communist International with headquarters at Moscow is the organ of the Communist Party for international propaganda. The Soviet regime in Russia is the organ of the Communist Party for the governing of Russia. As Steklov, member of the Russian Communist Party and of the All-Russian Central Executive Committee and editor of the *Izvestia*, official organ of the Soviet regime, has stated in this official paper:

"The close organic and spiritual connection between the Soviet Republic and the Communist International cannot be doubted. And even if this connection had not been admitted many times by both sides, it would be clear to everybody as an established fact. . . . This connection is not merely of a spiritual, but also of a material and palpable character. . . . The mutual solidarity of the Soviet

[22] For publication in the morning newspapers of Dec. 20.

republics and the Communist International is an accomplished fact. In the same degree as the existence and the stability of Soviet Russia are of importance to the Third International, the strengthening and the development of the Communist International is of great moment to Soviet Russia."

Instructions

"The Communist International notes with great satisfaction that the work of the W.P.A. for the past year has been expressed in a satisfactory broad and real revolutionary work. Particularly pleasing to us is the fact that all dissensions existing up to the present time in the ranks of the Party have finally been liquidated and we hope that the W.P.A., the advance guard of the revolutionary proletariat of the United States of North America will now more successfully conduct its revolutionary work among the millions of American proletarians.

"For more intensive revolutionary work we suggest that the following instructions be adhered to:

"1. All the activity of the Party must at the present time be directed among the workers of the large industries, such as the railroad workers, miners, weavers, steel workers and similar workers engaged in the principal industries of the United States.

"2. Among these workers in the factories, mills, plantations, clubs, etc., there must be organized units of ten. The head of this unit of ten must in so far as possible be an old trusted member of the Party, who must once a week, together with his ten, study the Communist program and other revolutionary literature.

"3. These units of ten must be organized by occupation and nationality.

"4. The head of the unit must know intimately each individual member of his ten—his character, habits, the degree of his revolutionism, etc., and report everything direct to the central committee of the Party.

"5. Each of these units of ten must have their own fighting unit of not less than three men, who are appointed by the leader of the unit with the approval of the Central Committee of the Party. The members of the fighting unit in addition to all other matters, must once a week be given instructions in shooting and receive some instruction in pioneer work. (sapper work).

"6. All the unit leaders of each district must meet once every two months to discuss the progress of their work and their plans for further activities in the presence of a member of the Central Committee of the Party.

"We are firmly convinced that work in the direction designated by us will give enormous results in the sense of preparing thousands of new propagandists, future leaders of the military forces of the Party and faithful fighters during the social revolution.

"With reference to the organization by the W.P.A. of the Federated Farmer Labor Party, the Communist International expresses its complete satisfaction and its approval to the Central Committee of the Party for its boldness and tact in putting this idea into effect.

We hope that the Party will step by step conquer (embrace) the proletarian forces of America and in the not distant future raise the red flag over the White House."

Press Release Issued by the Department of State, December 24, 1923 [22a]

The following translation of an article by Steklov, from the *Izvestia*, No. 252 (1691), November 7, 1922, is made available to the Press:

"Republic of Soviets and III International

"The coincidence of the date of the celebration of the 5th Anniversary of the October revolution and the opening of the 4th Congress of the Communist International is by no means an accidental or arbitrary occurrence. This coincidence has a deep significance, and flows out of the organic connection between two historical phenomena.

"The Soviet Republic celebrates today its 5th Jubilee; the Communist International convenes its 4th Congress. Thus the Communist International appears somewhat younger than its Soviet brother. And in fact, it was founded in the second year of the Soviet Republic, and, on the formal initiative and under the strong influence of the Russian Communist party. The majority of the Communist parties, entering into its composition were founded later than the Russian party. This has given cause to our enemies to affirm that the whole Communist International, as such is a creature of Moscow. But in fact it is not at all so.

"However paradoxical it may appear at the first glance, the October Revolution and the Russian Communist Party which realized it, from a broad historical point of view are themselves the product and creation of the Communist International. To be sure, as a complete and formal organization the Communist International arose later. But as an idea, it existed earlier than they. Before its formal proclamation, the Communist International existed in the consciousness of all revolutionary Marxists. Its fundamental elements were developed at the Conferences in Zimmerwald and Kienthal and in the inter-party disputes during the Imperialist War. As a categorical imperative and a directing spirit it was active long before the Constitutent [*sic*] Congress of the III International. In particular, the Russian Bolsheviks as far back as 1914–15 looked upon themselves as part of the future III International, acted in conformity with its principles, and in accordance with them carried out the October Revolution.

"But, however we may look upon the chronological succession of events and on their historical sequence, the very close organic and spiritual bond between the Soviet Republic, product of the

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[22a] For publication in the morning newspapers of Dec. 25.

October Revolution, and the Communist International can not be doubted. And even if the connection had not been admitted many times by both sides, it would, nevertheless, be clear to all, and as an established fact. It is clear to us as to our enemies.

"Comrade Kalinin in his speech at the opening of the last session of the All-Russian Central Executive Committee remarked, that 'in the general strength of the III Communist International, the strength of the Soviet federation has an enormous significance', and that 'the workers and peasants of the Soviet Republic are one of the great component forces of the Communist International.'

"That is a deep truth. The counter-revolutionary press makes sport over the Russian peasant being interested in the International. Regarding the Russian worker that press raises no quarrel. But in regard to the peasant the assertion of Kalinin is true. It is possible that the average Russian peasant has a very poor conception of just what the Communist International is, and even less understands its program. Nevertheless he knows very well about the Communist International and feels himself bound to it. Compelled for four years to defend themselves from the attacks of international capital, the Russian laboring masses on their own skin keenly felt the significance of the international solidarity of the workers. The laborers and peasant masses of the Soviet Republic, hitherto boycotted and blockaded by the Capital of the Imperialist powers understand perfectly that their daily material interests are closely bound up with the success of the International Revolutionary movement. And in this sense Russia is now the country most internationalistically inclined in its broadest masses.

"On this side the very close bond between the Soviet Republic and the Communist International is not subject to doubt. This connection is not only of a spiritual, but also of a material and palpable character. On its side the Communist International in the same measure is spiritually and materially connected with Soviet Russia. It is not a question of material support, about which the bourgeois press makes so much noise, and which, in the largest part, belongs to the realms of myths. In any case the material support, which, for instance, the workers of all countries extended to the Soviet Republic during the famine of last year, is not less than the support extended by the Russian Communist Party to fraternal parties abroad.

"Of course, in event of the possibility arising, both sides will extend to each other the maximum assistance. But at present it is a question of a bond of another sort, preeminently of a spiritual political character.

"The Communist International rests on Soviet Russia. The very fact of the existence of the Socialist Republic, for five years repulsing attacks from all sides, maintains the revolutionary state of mind of the international proletariat and does not permit it to become depressed in its difficult moments, inspires it to unwearied struggle, assists the workers' organization everywhere. In the Soviet Republic the International proletariat has an inaccessible stronghold in which the elaboration of the international Communist Program and tactics is proceeding, and where the systematic accumulation of creative proletariat experience and the construction of a proletariat

state are going on. Here there is a real asylum for all those who fight for social revolution, whither they can seek shelter from the vindictive persecution of the bourgeoisie and where they can in practice acquaint themselves with the process of the construction of a Communist society.

"The mutual solidarity of the Soviet Republics and the Communist International is an accomplished fact. In the same degree as the existence and the stability of Soviet Russia are of importance to the III International, the development and strengthening of the Communist International is of importance to Soviet Russia. In the past the International has helped Russia to ward off the attacks of world Capital. In the future its aid will prove more effective. The success of the Communist International will contribute to the consolidation of the political and economic position of Soviet Russia, and vice versa. The spiritual, moral, and material bond between them is based on the complete solidarity of interests.

"That is why the idea of opening the 4th Congress of the Communist International on the day of the celebration of the anniversary of the October Revolution was a happy one. It is a symbol, full of deep significance, speaking equally convincingly for enemies and for friends.

STEKLOV"

CLOSING OF THE AMERICAN CONSULATE AT VLADIVOSTOK

123 T 79/71 : Telegram

The Consul at Vladivostok (Tuck) to the Secretary of State

[Paraphrase]

VLADIVOSTOK, *February 22, 1923—2 p.m.*

[Received February 23—9:52 a.m.]

7. The secretary of the recently established Vladivostok department of the Moscow Commissariat for Foreign Affairs has notified me that three months is allowed me to obtain official exequatur by negotiation between the United States and the People's Commissariat for Foreign Affairs at Moscow. This consulate may function in the meantime although the Soviet authorities will not recognize it as official. The Chinese, Japanese and British consuls have received communications of the same purport.

Possibly if no action is taken the Soviet authorities will allow me to remain as a private individual. However, it is likely that the consulate will not be permitted to function as in the past, even unofficially. Pending definite instructions I will leave the Soviet communication unanswered.

I have informed the Embassy at Tokyo.

TUCK

123 T 79/71 : Telegram

The Secretary of State to the Chargé in Japan (Wilson)

[Paraphrase]

WASHINGTON, *March 2, 1923—5 p.m.*

19. Reference Vladivostok's telegram no. 7, February 22, 2 p.m. Advise Consul Tuck that Department will not make application for exequatur and that when and if it becomes necessary he may close the consulate at Vladivostok and leave. The Department, however, wishes him to stay as long as he is able to do so with dignity, and should his departure take place to make it clear that he is leaving not because of any unreadiness on his part to adjust himself to the local situation in a practical and friendly way as in the past but solely on the initiative of the *de facto* authorities. The Department relies upon his discretion. Unless an emergency arises he should ask the Department for specific instructions before he takes any decided step.

If it becomes necessary to leave, the consul should send all the archives and records to Tokyo or Harbin as seems best. He should go with the Americans on his staff to either Tokyo or Harbin as seems advisable and wait for orders.

HUGHES

361.1153 In 8/23 : Telegram

The Consul at Vladivostok (Tuck) to the Secretary of State

VLADIVOSTOK, *March 21, 1923—4 p.m.*

[Received March 21—12:05 p.m.]

11. Department's March 13, 3 p.m.[23] Merchandise International General Electric Company, valued at approximately $16,000, removed from customs warehouses by order of the Council of Labor and Defense. Remainder merchandise arrested and will be effectively confiscated shortly. Strong written protest lodged with local authorities. Company's agent and I would urge that the Department lodge additional protest immediately by whatever means possible with the central funds committee of Council of Labor [and] Defense, Moscow, which is responsible for the original decree under which goods become liable to seizure. Local representative Labor [and] Defense acting only in accordance with the provisions this decree and is not empowered, in view of the considerable value merchandise, to grant release in his discretion.

TUCK

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[23] Not printed.

361.1153 In 8/24 : Telegram

The Consul at Vladivostok (Tuck) to the Secretary of State

[Paraphrase]

VLADIVOSTOK, *March 26, 1923—1 p.m.*
[Received March 26—9:28 a.m.]

12. The secretary of the Vladivostok department of the Moscow Foreign Office has sent me written reply to the strong protests which I made in writing on behalf of the International General Electric Company (see my 11, March 21, 4 p.m.), and also on behalf of the International Harvester Corporation, all of whose property, worth about $200,000, the local authorities have also seized. Pending my official recognition as consul by the Moscow Government the secretary refuses to discuss any representations made on behalf of American interests. I have informed Embassy at Tokyo.

TUCK

361.1153 In 8/24 : Telegram

The Secretary of State to the Consul at Vladivostok (Tuck)

[Paraphrase]

WASHINGTON, *March 27, 1923—6 p.m.*

Under circumstances reported in your telegram no. 12, March 26, 1 p.m., you must use greatest care. Do not file further protests without explicit instructions from the Department.

HUGHES

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125. 977/9 : Telegram

The Chargé in Japan (Wilson) to the Secretary of State

[Paraphrase]

TOKYO, *April 2, 1923—3 p.m.*
[Received April 3—1:45 a.m.]

31. See Vladivostok consul's telegram 12, March 26. I received today from Consul Tuck a copy of his despatch of March 27 to the Department [24] in which he states conditions and expresses the conclusion that he must recommend the closing of the consulate prior to the expiration of the three months and that he and the Americans on his staff report to the Embassy at Tokyo. Tuck also writes that the British consul believes that despite the British-Soviet trade

[24] Not printed.

agreement there is little hope that he will remain. The British consul considers that he is without power to protect British interests and said that his instructions were to leave whenever it seemed to him necessary to do so.

. . . . . .

The letter of March 24 from the bureau of foreign affairs,[24a] which Tuck refers to in his telegram of March 26, 1 p.m., and encloses with his March 27 despatch, shows clearly that it is impossible for Tuck to render even informal aid to Americans because of the attitude of the Russian authorities. Under the deplorable conditions described by Tuck trade itself is impossible. In view of the foregoing it is my opinion that the retention of the consul at Vladivostok is not only useless but also is incompatible with our country's dignity.

WILSON

125.977/10 : Telegram

The Chargé in Japan (Wilson) to the Secretary of State

[Extract—Paraphrase]

TOKYO, *April 20, 1923—5 p.m.*
[Received April 20—11:30 a.m.]

40. I have received the following telegram dated April 19, 5 p.m., from the consul at Vladivostok:

Department should be informed that I will close this consulate May 1. This action will be taken in accordance with the general instructions given by the Department in its telegram of March 2, as our position here shows no signs of improving. Eventually I will notify local authorities that my presence would seem to be no longer necessary as I cannot make effective representations on behalf of Americans and American interests. . . . My decision will be made known to Thomas at Chita and he will be advised to leave for Harbin in good time as I do not think he is needed any longer at Chita. . . .

WILSON

125.977/9 : Telegram

The Secretary of State to the Chargé in Japan (Wilson)

WASHINGTON, *April 20, 1923—5 p.m.*

38. Your 31, April 2, 3 p.m., and Department's March 2, 5 p.m. About May 1 Tuck should communicate informally with local authorities pointing out that Mr. Khavin's communication of February

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[24a] Not printed.

20 last [25] will now necessitate closing of office and departure unless local authorities are prepared to afford Consulate for the future the privileges and immunities essential to the conduct of consular business. The chief of these are, 1st, protection of the persons of the Consul and his staff; 2d, inviolability of Consulate and archives; 3d, freedom of communication with Consul's own government and its other official agencies abroad; 4th, intercourse with local authorities and right of interposition on behalf of American interests. Tuck may say that Consulate will continue to function as long as these essential conditions are maintained and there is sufficient consular business to justify the maintenance of an office from the point of view of the United States. The question of obtaining an official exequatur from Moscow is involved in the larger question of the official recognition of the Moscow authorities by the United States and that Tuck may say he is not authorized to discuss.

If formal assurances are not forthcoming well before May 20 Tuck should close office and depart pursuant to Department's No. 19, of March 2, 5 p.m. Do you apprehend that he is likely to encounter difficulties with the local authorities incident to departure and the removal of the consular property?

For your information and that of Tuck: Thomas, Vice Consul at Chita, has been ordered to close office there without delay and to proceed to Harbin. This decision has been taken because of lack of consular business at Chita and the need for Thomas' services elsewhere and he has been authorized so to inform the local authorities. Your 40, April 20, 5 p.m. received after foregoing drafted. Tuck should follow instructions given above. Details of his own program approved including extra month's pay for Russians "as usually required in dismissing employes."

HUGHES

125.977/13 : Telegram

The Chargé in Japan (Wilson) to the Secretary of State

[Extract—Paraphrase]

TOKYO, *May 3, 1923—noon.*
[Received May 3—5 a.m.]

48. I have received the following telegram dated May 1, 5 p.m., from the consul at Vladivostok:

[25] Not printed; see telegram no. 7, Feb. 22, from the consul at Vladivostok, p. 792.

Please inform Department as follows: On April 25 the conditions set forth in its 38, April 20, 5 p.m., to you were made known in writing to the local authorities. Yesterday I received a call from the Secretary for Foreign Affairs who informed me that pending official recognition or some other form of mutual agreement between the Soviet Government and the United States, the Soviet authorities were not prepared to consider allowing the immunities and privileges requested. He said that he had telegraphed to Moscow regarding my communication, and I think that his reply was based upon instructions received directly from Moscow. I told him that on May 15 the consulate would be closed and that I and the American staff would leave Russia. . . .

WILSON

125.977/17

The Consul Formerly at Vladivostok (Tuck) to the Secretary of State

[Extracts]

No. 140 TOKYO, *May 22, 1923.*

[Received June 16.]

SIR: I have the honor to report as follows:

In pursuance with the Department's general instructions and my telegram of May 1, 5 p.m. through the Embassy at Tokyo, the Consulate of the United States of America at Vladivostok, Siberia, was closed to visitors on May 10th and finally closed, and the flag lowered, on May 15, 1923, at 6 p.m.

Arrangements with the "secretary" for Foreign Affairs had previously been made to secure visas for departure for myself, Vice Consul Stephan and Clerk Syvers. In addition, the "secretary" had furnished us with a signed statement requesting local authorities to grant all customs immunities to the Consulate's archives and our personal effects, all of which should bear our seal at the time of departure. . . .

. . . . . .

On May 16th we proceeded to the S. S. *Hozan Maru* and to our surprise and relief were permitted on board with all our archives and luggage after a perfunctory examination. The British Consul and his staff was accorded similar facilities. . . .

. . . . . .

I have [etc.] S. PINKNEY TUCK

REFUSAL BY THE DEPARTMENT OF STATE TO MAKE SPECIAL REPRESENTATIONS TO THE JAPANESE GOVERNMENT ON BEHALF OF AMERICAN OIL COMPANIES WITH INTERESTS IN RUSSIAN SAKHALIN

861b.6363/7

The President of the Sinclair Consolidated Oil Corporation (H. F. Sinclair) to the Secretary of State

[New York ?], *May 12, 1921.*

Dear Mr. Secretary: The Sinclair Exploration Company, a subsidiary of this Corporation, has been conducting negotiations over a period of several months with official representatives of the Far Eastern Republic for a grant of the right to conduct explorations for petroleum on the Russian part of the Island of Sakhalin. These negotiations have now reached the point where a preliminary contract, covering the general terms of the operation, may be executed, within a short time. The terms proposed are, we believe fair and advantageous to both parties, and the concession involved holds the promise of being of first class importance.

The preliminary contract, if executed, must be followed by a more formal and definitive arrangement entered into and confirmed by the requisite authorities at the seat of government of the Far Eastern Republic before any active exploration work can be attempted. We have reasonable assurance that this formal arrangement can be consummated if we desire it.

The Russian part of the Island of Sakhalin is now under military occupation by the Japanese. We have assumed that the execution of a preliminary contract with the Far Eastern Republic will raise no international questions; but entering upon a final arrangement with that Republic and following such arrangement by an attempt to explore might give rise to developments of some significance. We have, therefore, thought it proper to present the situation to you for consideration, having previously conferred with Messrs. Poole and Jamieson of your Department so as to save your time in the matter of details.

It is our present belief that the Sakhalin concession is one of outstanding importance, having in mind the interests of the United States Government as well as those of this Corporation, but we do not wish to risk creating embarrassments for you by activities that you may have reason to consider ill-timed.

We shall, therefore, be grateful for such advice or suggestions as you shall choose to offer.

I am [etc.] H. F. Sinclair

861b.6363/39a

The Secretary of State to the Sinclair Consolidated Oil Corporation

WASHINGTON, *September 27, 1921.*

GENTLEMEN: A copy of your letter to the Department of May 12, 1921, concerning a prospective oil concession in the northern portion of the island of Sakhalin, has been furnished by Mr. A. C. Veatch. It is to be regretted that the original is not in the files of the Department and has not heretofore received an answer.

You are aware, of course, that the Government of the United States has not recognized the so-called Far Eastern Republic, from which it is understood that the concession in question would be received. Having regard to this fact, and to other uncertainties in the situation, the Department cannot at this time encourage you to proceed to the conclusion of definite engagements. As the situation with respect to northern Sakhalin is receiving constant consideration, it is suggested, however, that the representatives of the Sinclair Exploration Company continue to maintain contact with the Department for the exchange of information and further consideration of their project in the light of subsequent events.

I am [etc.] CHARLES E. HUGHES

861b.6363/10

The Secretary of State to the Ambassador in Japan (Warren)

No. 27 WASHINGTON, *January 12, 1922.*

SIR: Reference is made to the Embassy's confidential despatch No. 52 of November 17, 1921,[25] relating to the reported operations of a Japanese group in connection with petroleum prospecting in Russian Saghalien.

For the confidential information of the Embassy the following brief summary of data in the possession of the Department is transmitted. These data were received from a representative of the Sinclair Consolidated Oil Corporation of New York, which contemplates obtaining a concession in Russian Saghalien.

The Sinclair Consolidated Oil Corporation has informed the Department that the company had acquired a contract with the authorities of the Far Eastern Republic at Chita covering the development of the oil fields in northern Saghalien. The contract is stated to call for a preliminary survey of northern Saghalien, the right to extract and market the oil, and the division of the profits between the company and the Far Eastern Republic.

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[25] Not printed.

The contract in question was stated orally to be a preliminary agreement which had been properly signed, but which, under a condition fixed by the Company, must be ratified by the Parliament at Chita. The agreement is understood to contain clauses to the following effect:

(1) The Far Eastern Republic may decline to grant the concession at the end of five years if by that time official relations between the United States and the Far Eastern Republic are not established; (2) in that case, the Far Eastern Republic agrees to reserve for the company the lands indicated by the company for one or two years more, the company agreeing to pay 100 gold dollars for each square verst per year. The agreement also contains provision by which the company is given an extension of time in case prospecting work is prevented by the military occupants of the territory. It is said that the Japanese are not specifically mentioned in the agreement.

Claims to petroleum rights initiated in Russian Saghalien prior to January 1, 1915, include the following:

(1) The Urkt or Zotoff concession covering 1740 acres.

(2) 18 Otvods (or lease areas of 27 acres each) held at one time by the China Oil Company. Thirteen of these are stated to have been definitely and officially canceled by the Russian Government prior to 1915.

(3) 238 Zyafkes (or prospecting areas of approximately 106 acres each), of which 16 were recorded in the name of the Sakhalin Oil Trading and Coal Company, 49 in that of Delsalle and Biskoupsky, and the remainder in the name of 120 other persons. All of these zyafkes are stated to have lapsed prior to May 5, 1915.

All of the above claims are on the eastern coast of Saghalien.

Of the above claims the only one which is said to be clearly valid, as of January 1, 1915, is the Zotoff concession. It is stated to have reverted to the Government, for some reason, and was disposed of at public auction in July, 1914, to L. L. Artz of Vladivostok. It is not known whether Artz is still the owner of this claim.

It is further stated that the original claims were so located that 80 per cent of them were on lands of no possible oil value. Furthermore, if they were all valid and all located on prospective oil territory, they would cover only an insignificant fraction of such territory.

The Department has been informed that two British companies, the Second Sakhalin Syndicate, Ltd. and the Sakhalin Oilfields, Ltd., which state that they hold a number of the above-mentioned claims, have been promised the support of the British Foreign Office. It will be understood that the Embassy, beyond obtaining and trans-

mitting all available information, should take no action until it receives further instructions from the Department.

I am [etc.]

For the Secretary of State:
F. M. Dearing

861b.6363/39

The Chief of the Division of Russian Affairs, Department of State (Poole) to the Under Secretary of State (Phillips)

[Washington,] *September 26, 1922.*

Mr. Phillips: Mr. Crandall, of the Sinclair Consolidated Oil Corporation, called at the Russian Division this morning. He referred to the reported failure of the Russian-Japanese negotiations at Changchun and suggested that the purpose of the Japanese in bringing matters to this pass by refusing to evacuate Sakhalin was to try out public opinion and particularly to ascertain whether the United States would silently and impliedly acquiesce in their position. He suggested, therefore, that an intimation be made to the Japanese Government that this Government felt that Sakhalin should be surrendered. It will be recalled that the Sinclair Consolidated Oil Corporation, which Mr. Crandall represents, holds a concession from the Far Eastern Republic for oil exploration and development in northern Sakhalin. This corporation had an observer at Changchun and Mr. Crandall's suggestion was apparently based upon telegraphic messages from him.

I told Mr. Crandall that this Government had never receded from its position that Japan should withdraw from all Russian territory, including northern Sakhalin. I said, as I said to Mr. Skvirsky of the Far Eastern Republic delegation yesterday that within the recent past we had made it clear to Japan that this was still our attitude. I told Mr. Crandall that I doubted whether it would do good rather than harm to make any further intimations to Japan at this time. I said, however, that the interest of the Sinclair corporation in the Sakhalin question would be carefully borne in mind and that he could be assured that we would take whatever action, if any, may seem appropriate and advisable.

Mr. Crandall asked if the question of the recognition of the Far Eastern Republic was being considered and I told him that it was not, as the events of the past year had shown more clearly than ever that this government did not enjoy real independence vis-à-vis Moscow.

Respectfully,

D. C. P[oole]

861b.6363/43

The Sinclair Exploration Company to the Secretary of State

NEW YORK, *February 7, 1923.*
[Received February 9.]

SIR: 1. On January 7, 1922, the Sinclair Exploration Company signed a contract[27] with duly authorized representatives of the F.E.R.[28] which gives this company the right to prospect and develop the Russian half of the Island of Sakhalin for oil.

2. To this contract was attached a supplementary agreement of political import, article 1 of which reads as follows:

"The Government has the right to cancel the concessional agreement at any time during the first year from the day of signing of this Supplementary agreement (January 7, 1922) in the following cases:

(*a*) If the Government is convinced from any acts or declarations of the Government of the United States of America that the latter will not give support to the Company in its execution of said concessional agreement.

(*b*) If the Government finds that the courts of the United States of America will not accept for trial matters which the Government or its citizens may in a proper manner bring against the agents of the Company or the Company itself in the territory of the United States of America.

(*c*) If the Government is forced to declare that the existence or fulfillment of the concessional agreement carries with it a manifest threat to the integrity of territory or a threatening of the sovereignty of the Far Eastern Republic or the Russian Socialistic Federative Soviet Republic.

"The Government is obliged to inform the Company by telegraph as to the existence of said cases which call forth the necessity of cancellation of the concessional agreement, in which connection the concessional agreement is counted as cancelled from the day of receipt by the Company of said telegraphic communication."

3. In view of this article above quoted naturally the Sinclair Exploration Co. could take no steps towards active development during this period.

4. In November of 1922, the F.E.R. amalgamated with the R.S.F.S.R. and on January 6, 1923, we received the following cable from Mr. Litvinoff, Acting Commissar of Foreign Affairs in Moscow:

"In view amalgamation Far Eastern Republic with Russian Federated Soviet Republic your agreement concerning Sakhaline oil exploration needs ratification by Russian Soviet Government. There

[27] Not found in Department files.
[28] Far Eastern Republic.

is no objection in principle to ratification but Soviet Government requires some time for examination agreement before giving final sanction. Soviet Government proposes prolong term of article one of supplementary agreement for four weeks and will give final decision not later February fourth. Please acknowledge."

5. To this cable, on January 8th, we replied as follows:

"Litvinoff, Acting Commissar Foreign Affairs Moscow. Your cable January sixth received. It is our understanding that on the amalgamation of the F.E.R. with the R.S.F.S.R. the contractual obligations entered into by the former automatically passed to the latter. With this in view we have already started preparation for beginning the exploration work in Sakhalin this summer. We would however be pleased to have formal endorsement by the R.S.F.S.R. of our agreement for reasons of publicity in the United States which would redound to the benefit of the R.S.F.S.R. in this country. Concurrent with this endorsement would you please indicate the bank into which you desire us to pay the deposit called for by article 36 of the agreement. We would be glad to discuss further with you the modifications of the original agreement proposed by us which have already been discussed between your representatives and ours and which will in the long run be beneficial to both parties. Please address any further communications to 45 Nassau Street, Sinclair Exploration Company."

6. On January 29th we received from Mr. Litvinoff a reply to our cable in the following terms, which we considered satisfactory:

"Agreement between former Far Eastern Republic your company concerning Saghalin exploration signed January seventh 1921 as well as Supplementary Agreement same date ratified by Government of Russian Federative Republic January 23. Deposit according clause 36 should be paid Lloyds Bank London account Russian State Bank."

7. Under our contract we are obliged to commence exploration work in a year and within sixty days after the termination of this year—that is, by March 7, 1924—we must reduce our exploration area to 20,000 square versts for further examination during the second year. By article 23 we are required to start drilling within two years—that is, January 7, 1925—and further to make a deposit of 200,000 gold rubles before we commence exploration work.

8. In view of the foregoing and the climatic conditions of the Island of Sakhalin which prevent communication with the outside world during many months of the year, it will be necessary for us to commence our exploration work during the present summer.

9. At the present moment the territory covered by our concession is under military occupation by Japanese forces which according to their public statements is merely an occupation pending settlement of their claim for reparation against the Russian Government arising out of the Nikolaievsk massacre.

10. We naturally assume that an occupation of this kind would place some of the administrative and all of the police powers in the hands of the Japanese authorities for the time being.

11. A geological party, such as we intend to send to Sakhalin with the opening of the navigation season, going into a territory under a military control of this nature would have much greater freedom of movement and would accomplish its work with greater dispatch if the authorities in temporary control offered all facilities as we can only assume they will, if duly notified of the nature of the company's contract and the status of its representatives.

12. It might prove of decided assistance to the Sinclair Company in carrying out its contractual obligations if the State Department were to notify the Imperial Japanese Government of the expected early arrival of the Sinclair party on the Island this summer and request from them the usual courtesies and considerations which as American citizens they would expect from a nation with whom we maintain the friendliest relations.

Yours very truly,

SINCLAIR EXPLORATION COMPANY
By R. CRANDALL

861b.6363/43

The Secretary of State to the Sinclair Exploration Company

WASHINGTON, *March 17, 1923.*

GENTLEMEN: The Department has received your letter of February 7, 1923, concerning a contract which you report that you concluded January 7, 1922, with the representatives of the so-called Far Eastern Republic providing for certain oil exploration and development rights in the northern or Russian portion of the island of Sakhalin. You say that this contract has been confirmed by the so-called Soviet Government of Russia, as the successor of the Far Eastern Republic; that it is your intention to send out a geological party with the opening of the next navigation season; and that, as the region in question is in military occupation by the Government of Japan, it would facilitate the work of your party if the Japanese authorities were notified of the nature of your contract and the status of your representatives.

The Department does not doubt that the Government of Japan is ready to show due courtesy and consideration to American citizens and it is the general purpose of the Department to give proper support to American citizens in pursuit of their commercial interests abroad. The present case involves, however, special considerations.

The contract relates to territory which is actually occupied by the representatives of the Japanese Government, and it is not likely that,

until the questions relating to the Japanese occupation have been adjusted, the Japanese Government would be willing to recognize or facilitate proceedings under a contract which has been made with other authorities during the period of occupation and relates to operations in the occupied territory.

Aside from this difficulty, you will readily understand that it is impossible for this Government to take official cognizance of a contract which purports to have been concluded with a government which has not been recognized by the United States, and to make it the subject of diplomatic representations to another government.

The Department regrets to have to reply that it does not feel that it is in a position, in view of these circumstances, to present the matter to the Government of Japan in accordance with your request.

I am [etc.] CHARLES E. HUGHES

861b.6363/58

The Sinclair Exploration Company to the Secretary of State

NEW YORK, *April 2, 1923.*
[Received April 4.]

DEAR SIR: We are in receipt of your letter of March 17th (reference EE 861B.6363/43) regarding the expedition we plan to send to Sahalin this coming summer, which indicates to us that we failed in our letter of February 7th to make a clear presentation of our request.

In the first eleven paragraphs of our letter we endeavored, for your convenience, to review concisely some salient points in the situation. Our request to the State Department was contained in the last paragraph as follows:

"It might prove of decided assistance to the Sinclair Company in carrying out its contractual obligations if the State Department were to notify the Imperial Japanese Government of the expected early arrival of the Sinclair party on the Island this summer and request from them the usual courtesies and considerations which as American citizens they would expect from a nation with whom we maintain the friendliest relations."

While it appeared to us that one of the steps necessary was that the Japanese Government be officially notified of the nature of the Company's contract and the status of its representatives, it was, and is, our view that this notification should come from the Russian Government, for the reason that this Government is one of the contracting parties and the area covered by the contract is Russian territory, as was very forcibly pointed out by the Secretary of State at the Washington Conference.

The notification we ask of the State Department rests not on rights and privileges accorded by the contract, but on nationality. On this point the existence, or non-existence, of our contract with the Russian Government apparently does not arise, for in your letter you state, for reasons therein given, that "it is impossible for this Government to take official cognizance" of this contract. The scientists and engineers who will make up this expedition are American citizens, and the only point raised by our request is whether the American Government is willing to take the necessary steps to insure that they receive those things which American citizens have a right to expect from the officials of a friendly power. In ordinary circumstances this would presumably be effected by the issuance of a passport by the State Department and no such special notification would be required. The occasion for other action arises in this instance only because of the irregular and peculiar situation which exists in Northern Sahalin where the Japanese are exercising police control without sovereignty, or any claim to sovereignty, and without the consent or approval of the nation to whom this territory belongs, and which the Japanese Government is well aware is not regarded by the American Government as in any sense justified. Under these circumstances a passport to the Russian Government, even if one were issued, would not be effective, because of the existing Japanese military police control in this area. On the other hand, an ordinary passport to the Japanese Government covering or including in any way Russian Sahalin, might be construed as a reversal of the announced position of the State Department that Russian Sahalin is in no sense Japanese territory. It was for these reasons that we suggested a special note which would be in such form that it could not be construed by implication, or otherwise, as approving Japan's occupation of Sahalin.

We regret that the distinction between these two points was not elaborated in our letter of February 7th. We certainly had no intention of requesting the State Department to notify the Japanese Government of our contract with the Russian Government. We desired merely to take all possible precautions for the protection of American citizens engaged in legitimate business.

If, after reviewing our request, as we trust you will in the light of the clarifications of this letter, you find you cannot grant the request we have made, will you please advise us what in the opinion of the State Department is the best way to safeguard to the fullest degree the interests of the American scientists and engineers whom we plan to send to Sahalin this summer for the purposes of study and investigation.

Yours very truly,

SINCLAIR EXPLORATION COMPANY
By A. C. VEATCH, *Vice President*

861b.6363/58

The Secretary of State to the Sinclair Exploration Company

WASHINGTON, *April 14, 1923.*

GENTLEMEN: The Department has received your letter of April 2, 1923, in which you refer to your purpose to despatch an expedition next summer to Northern Sakhalin, there to carry on oil explorations in connection with the contract which formed the subject of your letter of February 7, 1923, and the Department's reply thereto of March 17.

You say that it was not your desire to have the Department make any communication to the Japanese Government on the subject of this contract but merely to apprise it of the expected arrival of the exploration party, with a view to their receiving such treatment as American citizens have a right to expect from the officials of a friendly power; and you add that in ordinary circumstances this would presumably be effected by the issuance of a passport by the Department and that no special notification would be required, but you assume that the Department would be unwilling to issue to the American citizens in your party passports valid for travel in the region in question.

American passports are now issued valid expressly for "all countries." The Department is prepared to furnish passports in this standard form to members of your party who make application therefor and are entitled to receive passports, and there would be no objection on the part of this Government to the use of these passports for the purposes of travel or sojourn in Northern Sakhalin. A passport issued by one government does not, however, confer a right upon its holder to enter territory within the sovereignty or under the actual control of another government except with the consent of the latter. While Japan maintains in fact a military occupation of Northern Sakhalin, though this Government has expressed the view that the occupation should not continue, the exercise of effective authority in the region in question remains with the Japanese Government.

There is no objection on the Department's part to your communicating with the Japanese authorities directly concerning the admission of your party, but special representations on the subject by this Government would inevitably bring into question the contract above mentioned, and the Department is not prepared, for the reasons stated in its letter to you of March 17, 1923, to take cognizance thereof.

I am [etc.] CHARLES E. HUGHES

861b.6363/70a

The Secretary of State to Mr. Francis B. Loomis of the Standard Oil Company of California

WASHINGTON, *May 19, 1923.*

SIR: Reference is made to your interview of May 18, 1923, with the Secretary of State, concerning the desire of the Standard Oil Company of California to obtain permission from the Government of Japan to send a party of geologists to Northern, or Russian Sakhalin, this summer for the purpose of making geological reconnaissance of certain areas in the Eastern part of the Island supposed to contain structure favorable to the production of petroleum. You stated in the interview referred to, that the areas which the Standard Oil Company of California desires to have studied by the geologists are covered by patents legally obtained and executed under the Government of the late Czar of Russia. You also pointed out that the season during which geological work may be prosecuted to advantage in Northern Sakhalin is brief, and suggested that in consideration of this condition, the matter of obtaining permission from the Japanese Government be taken up by telegraph with the American Embassy at Tokyo.

American passports are now issued valid expressly for "all countries." The Department is prepared to furnish passports in this standard form to the members of the geological party mentioned who make application therefor and are entitled to receive passports, and there would be no objection on the part of this Government to the use of these passports for the purpose of travel or sojourn in Northern Sakhalin. A passport issued by one government does not, however, confer a right upon its holder to enter territory within the sovereignty or under the actual control of another government, except with the consent of the latter. Japan maintains in fact a military occupation of Northern Sakhalin, though this Government has expressed the view that the occupation should not continue.

There is no objection on the part of this Government to the Standard Oil Company of California communicating directly with the Japanese authorities concerning the admission of the party in question, but the Department regrets to inform you that it is not prepared at this time to make special representations on the subject to the Japanese Government.

I am [etc.] CHARLES E. HUGHES

861b.6363/71

Mr. Francis B. Loomis of the Standard Oil Company of California to the Secretary of State

WASHINGTON, *May 22, 1923.*

SIR: I am in receipt of your letter of May 19th designated "EE", concerning the desire of the Standard Oil Company of California to obtain permission from the Government of Japan to send a party of geologists to Northern, or Russian Sakhalin, this summer for the purpose of making a geological reconnaissance of certain areas in the Eastern part of the Islands believed to contain structure favorable to the production of petroleum. These areas are covered by patents lawfully obtained from and executed by the Government of the late Czar of Russia. I suggested in this connection that the Department give its support to our request to the extent of asking the American Embassy in Tokyo by cable to communicate our desire to the Japanese Government.

The Secretary of State stated in this interview that he did not think he could comply with my request on behalf of the Standard Oil Company of California, for the reason that he had felt obliged to deny a request for permission to send a geological party to Northern Sakhalin preferred by another American Company. This other American company, it appears, had made a contract and to that extent virtually entered into partnership with the Soviet Government of Russia, a government recognized neither by the Government of the United States nor by the Government of Japan. It seems to me that this refusal of the request of the Sinclair Company rests, in the main, on the fact of its relations with the Soviet Government of Russia. I assume that had the Sinclair Company's application to the Department been free of any such entanglement that a different answer might have been made to its request. The application now under consideration, on the part of the Standard Oil Company of California, stands on an entirely different basis. We have no connection whatsoever with any government which has been denied recognition by the United States or by Japan. We come simply as an American Company in good standing, asking the support of the Government in our endeavor to secure permission to enter, for the purpose of examination, territory believed to be rich in petroleum deposits.

The areas which we wish to examine were obtained, as has been said, lawfully from a regularly organized government, long recognized by both the Government of the United States and that of Japan. Indeed, the Japanese Government itself is now engaged in putting down wells in Northern Sakhalin on claims or patents issued

by the Government of the late Czar, which claims have just the same origin and validity as those which we seek permission to examine.

It does not seem to us that the door of opportunity in Northern Sakhalin should be closed to all American oil companies simply because one such company happened to have official relations with the Soviet Government of Russia; the fact being, of course, that without the support of the Government of the United States no American oil company is likely to obtain permission from the Japanese Government to send its geologists into Northern Sakhalin.

May I not ask, in view of the facts set forth above, that you will be good enough to give some further consideration to this matter.

I have [etc.] FRANCIS B. LOOMIS

861b.6363/71

The Secretary of State to Mr. Francis B. Loomis of the Standard Oil Company of California

WASHINGTON, *June 12, 1923.*

SIR: The Department has received your letter of May 22, 1923, in which reference is made to the Department's letter of May 19, 1923, concerning the desire of the Standard Oil Company of California to obtain permission from the Government of Japan to send a party of geologists to Northern, or Russian, Sakhalin for the purpose of making a geological reconnaissance in certain areas in the eastern part of the island believed to contain structure favorable to the production of petroleum. You state that these areas are covered by patents lawfully obtained from, and executed by, the Government of the late Tsar of Russia, and ask that, in view of the facts set forth in your letter, the Department give further consideration to the company's request for support in the proposed reconnaissance to the extent of instructing the American Embassy at Tokyo by cable to communicate the desire of the company to the Japanese Government.

In its letter to you of May 19, 1923, the Department stated that there was no objection on the part of this Government to the Standard Oil Company of California communicating directly with the Japanese authorities concerning the admission of the exploring party in question, but that the Department was not prepared at this time to make special representations on the subject to the Japanese Government.

In declining to accede to the suggestion that the Japanese Government be informed through the Embassy at Tokyo of the company's desire to send a party of explorers into Northern Sakhalin, the Department acted only after the most careful consideration of all the questions involved, but the Department has no objection to receiving

such additional information as you may consider necessary in support of the interests of the Standard Oil Company of California in this matter, including details of the grants and transfers upon which the company bases its claims to an interest in the rights in question.

I am [etc.] CHARLES E. HUGHES

861b.6363/86

The Sinclair Exploration Company to the Secretary of State

NEW YORK, *October 24, 1923.*
[Received October 25.]

SIR: The Sinclair Exploration Company, in keeping with their customary policy of informing the Department of State of their foreign activities, wishes to advise that they have recently despatched a party to the Far East under the direction of Mr. J. P. McCulloch with instructions to proceed to the Russian half of the Island of Sahalin, and there commence exploratory work for oil. This work is undertaken in fulfillment of the concessional contract, for the exploration and development of the oil resources of Sahalin, originally entered into between the Sinclair Exploration Company and the Far Eastern Republic, and since ratified in August of this year by the Moscow Government.

The entrance of the Far Eastern Republic into the Union of Soviet Republics gave rise to this ratification, the effect of which is that the Moscow Government (S.S.S.R.) takes the place of the F.E.R. in the contract, i.e. assumes the rights and obligations of the latter, vis-à-vis the Sinclair Exploration Company.

We have [etc.]

SINCLAIR EXPLORATION COMPANY
By R. CRANDALL

861b.6363/86

The Secretary of State to the Sinclair Exploration Company

WASHINGTON, *November 1, 1923.*

GENTLEMEN: The Department is in receipt of your letter of October 24, 1923, stating that your company has recently despatched a party to the Far East with instructions to proceed to the "Russian half of the Island of Sakhalin, and there commence exploratory work for oil." You add that "this work is undertaken in fulfillment of the concessional contract, for the exploration and development of the oil resources of Sakhalin, originally entered into between the

Sinclair Exploration Company and the Far Eastern Republic, and since ratified in August of this year by the Moscow Government."

In acknowledging the receipt of your letter this Department refers you to its letter of March 17, 1923.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS
Under Secretary

861b.6363/88

The Sinclair Exploration Company to the Secretary of State

NEW YORK, *March 14, 1924.*
[Received March 15.]

SIR: Further to our letter of October 24th 1923, we wish to advise you that the party sent from here on September 27th 1923 by the Sinclair Exploration Company, for the purpose of commencing exploration work for oil in the Russian part of the Island of Sakhalin, left the city of Nickolaevsk on the mainland of Siberia on February 5th of this year and crossed the ice to Post Alexandrovski, the port of entrance to the Island of Sakhalin.

We have since received cable reports from this party stating that they were not permitted by the Japanese military authorities in control of this island to do any work and were obliged to leave Post Alexandrovski on February 20th on board an ice-breaker. The party arrived at Otaru, Japan on or about the 1st of March and from that point proceeded to Peking, China.

We have [etc.]

SINCLAIR EXPLORATION COMPANY
By: R. CRANDALL

PLEDGE GIVEN TO THE DEPARTMENT OF STATE BY AN AMERICAN OIL CONCESSIONAIRE IN RUSSIA NOT TO INFRINGE UPON THE EXISTING RIGHTS OF AMERICANS OR OTHER FOREIGNERS IN RUSSIA[29]

861.6363/124a

The Secretary of State to the International Barnsdall Corporation

WASHINGTON, *January 30, 1923.*

GENTLEMEN: I desire to recall the visit to the Department on October 17, 1922, of Mr. Mason Day and Mr. Loucks, representing, as it

[29] See *Foreign Relations*, 1922, vol. II, pp. 818 ff.

was understood, the Barnsdall Corporation or the International Barnsdall Corporation. Mr. Day and Mr. Loucks explained the general nature of certain business which the International Barnsdall Corporation expected to undertake in the Russian oil fields and asked if the Department objected. They were informed that the Department made no objection to American citizens or corporations doing business in Soviet Russia on their own responsibility and risk, provided that the operations in view did not jeopardize or infringe the vested rights of others. The latter proviso was based upon the necessity of protecting the existing rights of American citizens in Russia, as well as the rights of the citizens of other countries in conformity with a statement made by this Government in July last,[30] a copy of which is enclosed.

Mr. Day and Mr. Loucks said that it was understood that the Barnsdall Corporation was proceeding on its own risk and responsibility, and Mr. Loucks said, with respect to the second point, that it was not the intention of the Corporation to encroach upon the property rights of others and that, if complaint were made in any particular instance and it was found that the Corporation had unwittingly done so, the operations complained of would be stopped forthwith. The representatives of the Department noted Mr. Loucks' statement and added a request that it be confirmed in writing. Although it was understood that such a written confirmation was promised, none has been received up to the present. When Mr. Day called at the Department on January 19 last he was again reminded of the matter.

In view of the possibility of complaint by other Governments on behalf of their citizens or by citizens of this country who may conceive that your operations in Russia infringe upon their vested rights, it is again suggested that the Department be provided with a written confirmation of the assurance given orally by Mr. Loucks.

I am [etc.] CHARLES E. HUGHES

861.6363/126

The Chairman of the Board of Directors of the International Barnsdall Corporation (Robert Law, Jr.) to the Secretary of State

NEW YORK, *February 1, 1923.*
[Received February 5.]

DEAR MR. HUGHES: We acknowledge the receipt of your letter of January 30th, 1923, referring to the visit of Mr. Mason Day and Mr. Loucks to Washington, in October, 1922.

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[30] Statement issued to the press July 20, 1922; see *ibid.*, p. 823, footnote 44.

We confirm the statements that were made to you at that time by our Mr. Day, and Mr. Loucks, and reiterate that in the business which this corporation is now undertaking, in the Russian oil fields, it is the intention of this corporation to operate solely lands at all times Government owned, and that this corporation has no intention whatsoever of encroaching upon the property rights of citizens of other countries in Russia.

We likewise confirm the statement made by Mr. Loucks at that time, and do hereby agree that, if complaint is made in any particular instance and it is found that this corporation is unwittingly encroaching upon the vested rights of the citizens of other countries in Russia, that the operations complained of will be stopped, until the matter can be satisfactorily adjusted.

We feel that such a situation can never arise, as our engineers, who are now on their way to Russia, have had specific instructions to operate only Government lands.

Hoping that this assurance covers your requirements, and that you will at all times realize that this corporation will take no steps that will, in any way, interfere with your established policies, we remain,

Very truly yours,

ROBT. LAW, JR.

861.6363/126

The Secretary of State to the International Barnsdall Corporation

WASHINGTON, *February 12, 1923.*

GENTLEMEN: I have received your letter of February 1, 1923, and have been pleased to note the assurances contained therein with regard to your proposed operations in the Russian oil fields.

You say that it is not your intention to infringe upon the vested rights of others in these oil fields, and that, if complaint is made in any particular instance and it is found that you are doing so unwittingly, the operations complained of will be stopped "until the matter can be satisfactorily adjusted." This means, I assume, a satisfactory adjustment with the persons whose vested rights are in question.

I assume also that in referring to the vested rights of "the citizens of other countries in Russia" it was your intention to include citizens of the United States as well as those of third countries. I should be glad to have you confirm this.

I am [etc.] CHARLES E. HUGHES

861.6363/128

The International Barnsdall Corporation to the Secretary of State

NEW YORK, *February 14, 1923.*
[Received February 15.]

DEAR SIR: We have your letter of February 12th, in relation to operations in the Russian oil fields.

Your construction of the letter we wrote you on February 1st, 1923, is correct with this slight modification. If circumstances should arise under the operations, in which we are unwittingly infringing on the vested rights of others, we presume that the only way that the matter can be satisfactorily adjusted is with the persons whose vested rights are in question. If, however, there is any other way that the matter can be adjusted satisfactory to the Department of State of the United States, and such way,—which at present we cannot visualize—, would be an easier way of adjusting the matter, of course we would feel that, under such circumstances, the matter being completely satisfactory to your Department, we could proceed.

"Citizens of other countries in Russia" includes citizens of the United States.

We remain [etc.]

INTERNATIONAL BARNSDALL CORPORATION
By ROBT. LAW, JR., *Chairman of the Board of Directors*

DISPLEASURE EXPRESSED BY THE UNITED STATES AT SENTENCES OF DEATH PASSED UPON ROMAN CATHOLIC CLERGY IN RUSSIA [31]

861.404/88a : Telegram

The Secretary of State to President Harding

WASHINGTON, *March 28, 1923.*

The Department is receiving appeals from various Catholic societies in this country to protest against the sentence of death reported by the press to have been passed by the Russian Soviet authorities on Archbishop Zepliak and other ecclesiastics. The Belgian Ambassador has presented a similar appeal from Cardinal Mercier and our Legation at Brussels has telegraphed an urgent message from the Cardinal for you expressing the earnest hope that something can be done to save these persons. There is a press despatch this morning that execution of sentence has been postponed and this is probably correct. It is doubtful whether any representations

[31] Cf. *Foreign Relations*, 1922, vol. II, pp. 835 ff.

which we might make would have any effect. It is possible nevertheless that in view of the appeals which are being made you may care to have me instruct Houghton to make known to the Soviet representative in Berlin how deeply the action which has been taken against these ecclesiastics has stirred public opinion in the United States. I shall be very grateful for an expression of your views. Our Embassy in Berlin would probably be the best medium of approach.

CHARLES E. HUGHES

861.404/89 : Telegram

President Harding to the Secretary of State

ST. AUGUSTINE, FLORIDA, *March 28, 1923.*
[Received March 28.]

I know nothing of the merits of the cases of Russian ecclesiastics but it can do no harm and may be helpful to convey through Houghton an expression of American sentiment in opposition to death sentence. You may instruct Houghton accordingly.

WARREN G. HARDING

861.404/91a : Telegram

The Secretary of State to the Ambassador in Germany (Houghton)

WASHINGTON, *March 28, 1923—5 p.m.*

27. Public opinion is aroused in this country by the report of the death sentence passed on Archbishop Zepliak and other Roman Catholic ecclesiastics in Russia, and there are many appeals for intercession on their behalf. It is fitting that the humanitarian sentiment of the American people should find expression and it is thought that the advisable course is to have you communicate informally on the subject with the Soviet representative in Berlin. You may say that the public mind in this country has been much stirred by reports of the sentence passed and that execution of the sentence against these ecclesiastics cannot fail to have a most unfortunate effect. You may say that it would seem to be only the part of friendliness to let him know the extent and intensity of the feeling which has been aroused and to express the earnest hope in the interest of humanity that the lives of these ecclesiastics may be spared. The Department must leave it to you to determine the form and manner of communication taking account of the absence of recognition and official intercourse, and you of course will avoid a formal official representation.

HUGHES

861.404/92 : Telegram

The Ambassador in Germany (Houghton) to the Secretary of State

BERLIN, *March 30, 1923—4 p.m.*
[Received 7:15 p.m.]

63. Your 27, March 28, 5 p.m. Decided to reach Russian Ambassador by using Professor Stein who acted as go between for Tchicherin and myself. Stein accordingly saw Ambassador who agreed willingly to meet me today at Stein's apartment. Later, however, on reading Reuter's despatch from Washington stating that you had instructed me to make certain representations to him, he sent word by Stein, first, that the executions had been postponed so that the matter was no longer urgent, second, that he could not now meet me informally without instructions from Moscow because he now knew from Reuter despatch that what I wished to lay before him was for Russia a purely domestic matter, and, third, that he had himself forwarded full copy of the Reuter despatch to Moscow. There matter now rests.

In view of the above, I am disinclined to meet with Ambassador even if he obtains consent from Moscow. Further, communication with him should, it seems to me, be made by a secretary. Have you any instructions?

HOUGHTON

861.404/92 : Telegram

The Secretary of State to the Ambassador in Germany (Houghton)

WASHINGTON, *March 31, 1923—6 p.m.*

30. As it appears from your No. 63, March 30, 4 p.m., that the Soviet representative has been effectively apprised of the expression of the humanitarian sentiment of the American people and of their earnest hope that the lives of the ecclesiastics in question would be spared, and has communicated with his principals at Moscow on the subject, it may be unnecessary for you to do anything further, but in case you are approached by the Soviet representative you may communicate the message stated in the Department's 27, March 28, 5 p.m., through a secretary as you suggest. Whatever course you adopt, there should be no opportunity for a subsequent assertion that American sentiment in this matter was never actually made known to the Soviet representative.

HUGHES

811.111 Kalinin, Catherine

The Secretary of State to President Harding

WASHINGTON, *April 9, 1923.*

MY DEAR MR. PRESIDENT: Some time ago a request was presented to this Department by the American Committee for the Relief of Russian Children, asking that Madame Kalinin, the wife of the President of the so-called Soviet Government in Russia, should be admitted to this country for the purpose of a tour in the interest of Russian relief work. As you know, this Department does not control the actual admission of persons to the United States, but the granting of visas comes within its jurisdiction. Upon a consideration of the situation then existing and in view of letters from prominent persons supporting the request above mentioned, I decided to authorize the granting of a visa to Madame Kalinin on the condition that she should give an oral assurance to refrain from political utterances and activities of any sort while in this country and to confine herself to relief work. The American consuls at Riga and Reval, where she was expected to apply for a visa, were instructed accordingly.

Since this decision was taken much light has been thrown upon the real situation in Soviet Russia by the trial and condemnation of Archbishop Zepliak, Vicar General Butchkavitch and other Roman Catholic ecclesiastics. Sentences of death were passed upon the two prelates named and the principal governments of the world immediately interceded in their behalf in the name of humanity. These protests were repudiated by the Soviet authorities with the utmost insolence and the Vicar General was executed. The matter has been widely reported in the press. The conscience of the civilized world has been shocked. Particularly in the United States there has been evidence of the utmost public indignation. This Department has received many communications on the subject.

It is evident that the matter has become linked in the public mind with the admission to the United States of Madame Kalinin, and the Department is daily in receipt of strong protests from individuals and organizations in all parts of the country. It is asserted, though I am not in a position to say that it is a fact, that it was Madame Kalinin's husband who signed the death warrant of the Vicar General. In any case, it is plain that Madame Kalinin's presence in the United States at this time will be the occasion of strong public feeling.

The original decision to grant her a visa, though well founded at the time, I believe, has now come to be of doubtful wisdom. The Department has not been advised that Madame Kalinin has left Rus-

sia; there is no report of a visa having actually been granted. As it would be necessary to instruct the Consuls in question to suspend action, I desire to ask you to let me know as soon as you conveniently can your judgment of the matter. A number of persons, including Senator Shipstead, Representative Newton, Mr. Lewis Gannett of the *Nation*, and Mr. Paxton Hibben, have been informed that a visa would be granted to Madame Kalinin for a temporary visit to this country upon the condition stated above. A reversal of that decision now would operate in effect as a protest against the action of the Soviet authorities in connection with the condemnation of the Roman Catholic ecclesiastics. This might be wholesome action in accord with preponderant American opinion.

I hope you will let me have an expression of your view.

Faithfully yours,

CHARLES E. HUGHES

811.111 Kalinin, Catherine

President Harding to the Secretary of State

WASHINGTON, *April 9, 1923.*

MY DEAR MR. SECRETARY: I have your letter of even date relating to the proposed visit of Madame Kalinin, wife of the President of the Soviet Government in Russia, to the United States. It will be wholly pleasing to me to have you instruct the Consuls, heretofore directed to visa passports, to make denial in accordance with the instructions from the State Department. I think it altogether desirable that such a propagandist be excluded, particularly as a protest against the attitude of the Soviet authorities in their treatment of the Catholic ecclesiastics in Russia.

Very truly yours,

WARREN G. HARDING

811.111 Kalinin, Catherine: Telegram

The Secretary of State to the Minister in Latvia (Coleman)[32]

WASHINGTON, *April 10, 1923—10 a.m.*

17. Referring Department's March 17, 4 p.m. and 31, 5 p.m. to Consulate,[33] authorization visa for Madame Kalinin is canceled. Inform Consuls Riga and Reval at once. Her presence in this country is rendered wholly undesirable by the deep public feeling which has

[32] The information contained in this telegram with respect to the exclusion of Mme. Kalinin was released to the press on Apr. 10.

[33] Neither printed.

been aroused by the execution of Vicar General Butchkavitch and her exclusion is ordered especially as a protest against the treatment of Butchkavitch and his fellow ecclesiastics.

Rubenstein also excluded.

HUGHES

861.404/106

The Chief of the Division of Russian Affairs, Department of State (Poole) to the Secretary of State

[WASHINGTON,] *April 13, 1923.*

MR. SECRETARY: Mr. Skvirsky, the local agent of the Soviets, talked this morning with an officer of the Military Intelligence Division. He asked this officer what had been the real effect on American opinion of the execution of Butchkavitch. The officer said that it had been very deep and very unfavorable to the Soviets. Skvirsky said that Butchkavitch had acted traitorously and the Soviets were well within their right in executing him. He read a cablegram which he had just received from Tchitcherin stating briefly the Soviet side of the matter. This cablegram, which the officer described as weak, stated that the sentenced priests had resisted the Soviet law (for example in connection with civil marriage), and had acted upon direct orders from Rome. In particular, Butchkavitch had received money from Poland during the Polish-Soviet campaign of 1920. This money was ostensibly for church purposes but had really been used politically. Butchkavitch as well as the other priests had preached sedition and resistance to the Soviet authority.

Skvirsky went on to say that to a Russian within Russia the justice of the execution of Butchkavitch must be clear, but to a Russian outside, like himself, it had plainly been unwise. Skvirsky confessed to great dejection on the subject saying that all his work in this country for recognition had now been undone by a single act. He said that he talked with Governor Goodrich who, while professing still to believe in recognition, said that the pendulum had swung back from the favorable situation recently existing and was now at the other extreme, from which it would presumably swing back again in due course. Skvirsky had also talked with Senator Borah. He said that the Senator said that he was very sorry that this priest had been executed but that it was an internal affair of Russia and did not alter in his mind the question of Russian recognition.

Respectfully,

D. C. P[OOLE]

861.404/115

The Counselor of the Embassy in Germany (Robbins) to the Chief of the Division of Russian Affairs, Department of State (Poole)

BERLIN, *April 16, 1923.*
[Received May 3.]

MY DEAR DE WITT: You will remember that a week or so ago the Department instructed us, in view of the proposed sentence of death upon the Catholic Bishop Zepliak and his assistant, to take up the matter informally with the Russian representatives in Berlin. As you will also remember, the instructions were that we should call to the Russians' attention in an unofficial way the extremely unfortunate impression which was being created in the United States by this sentence.

We replied to you that through Ludwig Stein, who incidentally is a newspaper correspondent of the *Vossische Zeitung* and serves as a liaison between us and the Bolshevik outfit, we had sent the message to the Russian so-called Ambassador, Krestinski. We had received a reply from Stein that Krestinski had already learned of the instruction sent out to the American Embassy in Berlin, through a Reuter despatch, and that prior to receiving any official communication he thought it would be more advisable to communicate with his Government. He further stated that in case he could receive the communication, he would be pleased to receive one of the secretaries of the Embassy, as this seemed to be the manner in which other Embassies, who do not recognize Soviet Russia, were transmitting their messages.

We delayed for some days before taking further action and received incidentally the Department's second telegram, telling us that it might not be necessary to give further messages to the Soviet representative. However, the Ambassador and I finally got worried and on April seventh, the Ambassador instructed me to go and see Krestinski.

I called upon him and conversed through an interpreter in French. I again brought up the question of the sentence of the Catholic Bishops, one of whom had already, as you will know, been executed, and asked if he had received any instructions with regard to the message communicated to him through Ludwig Stein. He replied to me that we had been mistaken as to the message received from Ludwig Stein, and that though Stein had spoken to him about the Ambassador's message, he did not consider that he could take this message officially until delivered by a Secretary. . . .

I then asked Krestinski if he would prefer to take the message from me, to which he replied in the affirmative. I then went over

the whole matter again, and told him that very informally and in a friendly way, we wished to call to the attention of his Government the unfortunate impression, etc. etc., which would be made upon the people of the United States by the execution of such a sentence. He quickly replied that as my message was transmitted to him in an informal and friendly way, he would take great pleasure in immediately transmitting it to his Government. He added, however, that had it been presented to him in an official way, he would have been obliged to refuse to accept it, just as officially, for the reason that the protest made was against a matter which was one solely connected with the internal administration in Russia. He added further that as I probably knew, one of the Bishops had already been executed.

. . . . . .

Very faithfully yours,

WARREN D. ROBBINS

SALVADOR

STATEMENT OF THE LIMITED RESPONSIBILITY OF THE DEPARTMENT OF STATE UNDER THE LOAN CONTRACT OF JUNE 24, 1922[1]

816.51/222 : Telegram

The Secretary of State to the Chargé in Salvador (Hewes)

WASHINGTON, *January 9, 1923—5 p.m.*

2. Department's December 30, 5 p.m.[2] Department has now informed bankers that it has no objection to their proceeding under loan contract of June 24 last.

HUGHES

816.51/253

The Secretary of State to Messrs. Lansing & Woolsey

WASHINGTON, *April 9, 1923.*

GENTLEMEN: The Department has received your letter of April 4, 1923,[2] stating that Mr. Keith[3] is about to proceed to London to complete the underwriting of the Salvador Loan and that he would like to know whether the Department of State has any objection to the sale of a portion of the loan referred to in London.

In reply you are informed that the Department, in the light of the information at present before it, does not consider that the sale in London of $2,500,000 worth of bonds out of a total amount of $6,000,000 would make it necessary to withdraw the statement already made that it perceived no objection to the loan, provided that the loan was issued in accordance with the contracts which have been submitted to the Department, and provided that there was no essential change in the plan of procedure which you have hitherto discussed with the Department.

I am [etc.]

For the Secretary of State:
LELAND HARRISON
Assistant Secretary

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[1] For previous correspondence concerning the loan contract, see *Foreign Relations*, 1922, vol. II, pp. 885 ff.

[2] Not printed.

[3] Minor C. Keith, who on June 24, 1922, concluded a loan contract with the Government of Salvador through its representative, René Kielhauer.

816.51/290 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, *August 29, 1923—1 p.m.*
[Received 8:22 p.m.]

50. National Assembly this morning approved all pending loan decrees with only one dissenting vote.

SCHUYLER

816.51/319a : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, *October 20, 1923—3 p.m.*

28. In view of erroneous and misleading statements appearing in circulars advertising the Salvador loan, which have been made the basis for press statements to the effect that the United States had made a secret treaty with Salvador in connection with the loan and the carrying out of the loan agreement, the Department issued on October 18, the following statement to the press:

"The attention of the Department has been called to statements, both in the advertising of the recently concluded loan to Salvador and in the press, which have created an erroneous impression regarding the relation of the United States Government to the loan.

It has been stated that a secret agreement has been made by the Department of State. This is a misleading statement as the agreement was negotiated between the Government of Salvador and the representatives of the bankers concerned. It is in no sense a treaty.

The Department of State has no relation to the matter except with respect to facilitating the arbitration and determination of disputes that may arise between the parties, and the appointment of a collector of customs in case of default. It is manifestly to the interest of peace and justice that there should be an appropriate method of deciding such controversies as might arise, and at the specific request of the Government of Salvador and the interested bankers the Secretary of State has consented to use his good offices in referring such disputes to the Chief Justice of the Supreme Court of the United States, or if he is unable to act, to another member of the federal judiciary for appropriate arbitrament. Also, at the request of the Government of Salvador and the interested bankers, the Secretary of State consented to assist in the selection of the Collector of Customs, who, according to the loan contract is to be appointed in case of default. This was simply for the purpose of facilitating the choice of an entirely competent and disinterested person. The contract also provides that the Collector of Customs, if appointed, will communicate to the Department of State for its records such regulations relating to the customs administration as may be prescribed, and also a monthly and annual report.

The Government of the United States has no relation to the loan except in these particulars."

Should the misleading American newspaper articles be quoted in the local press you may make public the above statement.

HUGHES

816.51/328

Senator Couzens to the Secretary of State

WASHINGTON, *October 29, 1923.*

MY DEAR MR. SECRETARY: Enclosed is a page taken from "The Nation", October 24, 1923, entitled, "Mr. Hughes Makes a Secret Alliance".[5]

I do not know whether this was sent to all the Senators or not, but in any event it seems to me that what is contained in this article could hardly be correct, at least not the whole story. If consistent with your office, could you give me the correct information? If not consistent, will you please say if there is any way by which Congress may be informed later on?

Yours very truly,

JAMES COUZENS

816.51/328

The Secretary of State to Senator Couzens

WASHINGTON, *November 7, 1923.*

MY DEAR SENATOR COUZENS: In response to your letter of October 29, 1923, enclosing a page from *The Nation* of October 24, containing an article regarding the Salvador loan, I take pleasure in sending you the following facts regarding the relation of the United States Government to this loan:

On July 17, 1922, the American Legation in Salvador received from the Government of Salvador a note informing the Legation of the signature of the loan contract and stating that the Government of Salvador would cooperate with the Government of the United States and with the bankers, in carrying out the stipulations of the contract relating to the appointment and removal of the Collector General of Customs to be appointed in case of default, and regarding the settlement of disputes. The American Minister replied to this note on the same date stating that the Government of the United States had taken cognizance of the terms of the loan contract and that the Secretary of State was prepared to carry out the stipulations with reference to him in Articles IX, XIX and XXI of the loan contract in the event that it should be necessary to do so.

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[5] Not reprinted.

Article IX of the contract in question provides that any dispute between the parties to the contract shall be referred to the Chief Justice of the Supreme Court of the United States through the Secretary of State, and that, if the Chief Justice shall decline or be unable to act, the Secretary of State may designate another member of the federal judiciary of the United States to act in his place. Article XIX provides that, in case of default by the Republic upon its obligations, the Fiscal Agent of the loan, with the concurrence of the Secretary of State, shall select two individuals, of whom the Government of Salvador shall appoint one as Collector General of Customs. The article also provides that the Fiscal Agent may request the removal of the Collector General under certain conditions. Article XXI provides for communication to the Department of State as well as to the Minister of Finance of Salvador and the Fiscal Agent, of the rules and regulations made by the Collector General and of his monthly and annual reports.

The text of the exchange of notes has not been published by the Department, but if you would be interested in seeing the notes I shall take pleasure in having them made available for your inspection whenever it may be convenient for you to visit the Department.

I am enclosing for your information a copy of a statement regarding this loan which was given to the press on October 18, 1923.[6]

I am [etc.] CHARLES E. HUGHES

816.51/341

Senator Couzens to the Secretary of State

DETROIT, *November 15, 1923.*
[Received November 17.]

DEAR SECRETARY HUGHES: Your letter of November seventh has been forwarded to me here by my Washington office and I want to thank you for the very prompt response to my letter of inquiry of October twenty-ninth.

Of course I felt quite confident that the United States' Government had made no treaty in connection with this Law and that it in no way guaranteed the loan. I am interested however in your history of the transaction and the memorandum which you gave the press October eighteenth, 1923.

I do not feel competent with the limited knowledge I have of International affairs to undertake to criticise you Mr. Secretary in this particular matter, however, I do feel that I should inform myself as to whether or not this is a policy of the United States Government and if so, how long it has been the policy of the Government

[6] See the Secretary's telegram of Oct. 20, 3 p. m., p. 824.

to assign its Courts and other public officers to arbitrate differences between foreign governments and private citizens of the United States. If the policy has been one of some duration and experience has shown that no difficulties are incurred by it then there probably would be no objection to it. If, however, it is a new policy and there is no precedent for it, or experience had by the Government in connection with it then I think the proper question to raise is, whether or not it is a sound policy. I can conceive of great difficulties between the United States' Government and foreign countries should our public officers be generally engaged in deciding matters of arbitration between foreign countries and United States' citizens.

I would have no interest in seeing the notes exchanged between your office and the Government of Salvador, because I have every confidence in the Department's integrity and good faith, but I do ask if you wouldn't be kind enough to write me in response to this letter.

With best wishes [etc.] JAMES COUZENS

816.51/341

The Secretary of State to Senator Couzens

WASHINGTON, *November 28, 1923.*

DEAR SENATOR COUZENS: I have received your letter of November 15, 1923, in which you again discuss the question of the Salvador loan and express the opinion that difficulties might arise between this Government and the Governments of other countries, should our public officers be generally engaged in deciding matters of arbitration between foreign Governments and citizens of the United States.

It has been customary in contracts between American companies and Latin American Governments to provide for the arbitration of controversies by disinterested third parties, sometimes specified in the contract and sometimes left to be selected by common accord when the occasion might arise. In some instances the contract has designated an official of the United States Government as arbiter. In the case of the Salvador loan both parties desired to provide in the contract a definite procedure for the settlement of disputes. They therefore expressed a desire that the Secretary of State should consent to use his good offices in arranging for the submission of such disputes to arbitration by the Chief Justice of the United States, if he were able and willing to act, or by some other member of the federal judiciary who might be in a position to undertake the duties of arbiter. Since it was manifestly desirable, in the interest of American citizens who might

buy the bonds, that there should be an appropriate manner of deciding controversies between them and the Government of Salvador, I consented that the Secretary of State should use his good offices in the manner requested. I felt that a provision for the settlement by arbitration of controversies which would otherwise be likely to resolve themselves into diplomatic claims would be most helpful in preventing friction between this Government and the Governments of other countries.

The stipulations of the exchange of notes with Salvador of course imply no obligation whatever upon the Chief Justice, or upon any other federal judge, to act as arbiter if he does not consider it convenient and proper to do so. I do not consider it probable that the members of our federal judiciary will be called upon to act very frequently in questions arising under this loan agreement, because it is not, of course, contemplated that any dispute should be submitted to a member of our federal judiciary for arbitration until it has proved incapable of settlement by direct negotiations between the interested parties. If, however, a situation did arise where the services of one of our judges were invoked, I should imagine that he would deem it a public service to assist in bringing about a settlement of a controversy which might otherwise injuriously affect not only the interests of some thousands of American citizens, but also the friendly relations between this Government and one of its neighbors.

In conclusion permit me to express my appreciation of your courtesy in communicating to me your views upon this matter. I hope that the information furnished above will prove useful to you, and I shall be very glad to furnish any further information which you may desire.

I am [etc.] CHARLES E. HUGHES

816.51/346

Senator Couzens to the Secretary of State

WASHINGTON, *December 3, 1923.*

MY DEAR MR. SECRETARY: I am in receipt of your letter of the 28th,[7] discussing the question of the Salvador loan.

I am very glad to have your views on the subject and gather from them that the policy you adopted in connection with the Salvador loan is one that is generally used between American companies and Latin American Governments. Your past experience must indicate the policy is safe and sound, otherwise I am sure you would not have adopted it. However, I have some misgivings about the policy, because I feel that public officers of the United States must neces-

[7] *Supra.*

sarily have a leaning towards American citizens in matters in dispute. I think that some unofficial board of arbitration or arbitrator would be safer for both countries. If, however, the American companies doing business with Latin American countries do not feel that way about it and desire the United States Government to take cognizance of these contracts in such way as you have done in the Salvador case, then the agreement should be public property and approved by the Senate.

I am informed that it has been the practice of Secretaries of State in the past to submit these agreements to the Senate for confirmation, and it seems to me sound that that should be done. I should be pleased to know if you have any objection to the Senate approving of these agreements, or if it would in any way unnecessarily handicap your office. I am seeking information for the purpose of keeping this country out of trouble and not to in any way embarrass you. I should much prefer to have your views on the matter before introducing any resolution in the Senate calling for a general inquiry into these questions.

Trusting that you will find it convenient to give me your views in the matter,

I am [etc.] JAMES COUZENS

816.51/346

The Secretary of State to Senator Couzens

WASHINGTON, *December 7, 1923.*

DEAR SENATOR COUZENS: I beg to acknowledge the receipt of your letter of December 4[*3*], 1923, in which you again discuss the question of the Salvador loan. You suggest that agreements like that entered into by the exchange of notes with Salvador should be submitted to the Senate for confirmation, and you inquire whether I have any objection to the approval by the Senate of these agreements, or whether their submission to the Senate would in any way unnecessarily handicap the work of this Department.

I fear that I have not made entirely clear in my previous letters the nature of the agreement which was entered into through notes exchanged with Salvador in connection with the recent loan. The exchange of notes was in no sense a treaty, requiring confirmation by the Senate, but simply an understanding between the executive branches of the two Governments by which the Secretary of State consented to do certain things which he might properly do within his authority and within the customary limits of diplomatic action. I may perhaps make this more clear by pointing out the exact na-

ture of the undertakings assumed by this Department in connection with the loan. In the first place, the Secretary of State agrees that if the parties to the contract request him to act as intermediary in inviting a member of our federal judiciary to decide disputes arising under the contract, he will use his good offices in this manner. The Secretary of State might use his good offices in the same manner in a worthy case whether or not he had agreed to do so in advance. The Secretary of State further agrees that in the event of the nomination of a Collector General of Customs under the contract the bankers shall submit to him the names of two persons selected by them, in order that he may express his concurrence in their selection before the nominations are transmitted to the Government of Salvador, which will appoint one of the two as Collector General of Customs. Finally, the Secretary of State agrees that the rules and regulations and the reports of the Collector General shall be communicated to the Department of State as well as to the interested parties.

As you will perceive from the above analysis, the agreement in question is in no sense a treaty or convention, which would be constitutionally subject to approval by the Senate. In the ordinary course of the conduct of foreign relations this Government frequently finds it necessary or advisable to reach understandings with foreign Governments about questions involving the common interests of the two countries or the protection of the interests of American citizens, and these understandings in the great majority of cases, when they refer wholly to matters which are within the jurisdiction of the executive branch of the Government, are expressed in exchanges of notes or memoranda. It would, to my mind, be difficult to conduct the foreign relations of the Government if it were necessary in each case to communicate these very numerous agreements to the Senate before they could take effect.

With respect to your suggestion that the agreement entered into with Salvador should be made public, I wish to say that there is nothing secret about the notes exchanged and that a summary of their contents has in fact been widely published. The text of the notes themselves was not made public, because I did not desire that this Government's diplomatic correspondence should be used as advertising matter by bankers distributing the bonds of the loan. As I have already informed you, however, I shall be glad to arrange to have the notes made available for your inspection whenever you desire to see them.

I am [etc.] CHARLES E. HUGHES

SPAIN

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE UNITED STATES AND SPAIN—AGREEMENT TO PROROGUE THE COMMERCIAL AGREEMENT OF 1906 TO MAY 5, 1924[1]

711.522/22a

The Secretary of State to the Ambassador in Spain (Moore)

No. 162 WASHINGTON, *May 18, 1923.*

SIR: There is enclosed herewith a copy of a draft treaty of friendship and commerce which it is proposed to submit to the Government of Spain; also an additional copy of that draft for your Embassy, containing in parallel columns comments explanatory of the several provisions.[2]

The following statement is designed to make clear the position of this Government concerning the general features of the treaty, and respecting the various provisions thereof, and so will supplement the comments following the text.

You will observe from the Preamble that this is a treaty of friendship as well as of commerce. It touches many matters unrelated to commerce. It is designed to promote the friendly intercourse between the peoples of the United States and Spain, through provisions advantageous to both. It may be said with entire candor that this treaty embodies no attempt whatever to attain by sharp bargaining any undue advantage over a friendly State, or to request any peculiar favor which the United States is not itself ready to offer in return. The draft contains in certain articles provisions which in their practical operation ought to be deemed of special advantage to a foreign contracting party such as Spain. These advantages are incorporated in the treaty because they are deemed to promote justice as between the peoples of friendly States. In a word, through the present draft it is sought to lay the foundation for a comprehensive arrangement responsive to the modern and exacting requirements of important maritime States. To that end the several articles are expressed in terms which definitely and clearly set forth what is desired. It is sought by this means to avoid the danger of conflicting interpretations. The terms and phrases used are not always those which have

[1] For correspondence concerning the denunciation of the agreement of 1906, see *Foreign Relations*, 1922, vol. II, pp. 916 ff.

[2] Draft with comments not printed.

been employed in treaties of the United States. Those here utilized will, it is hoped, add to the clearness of the document.

. . . . . .

I am [etc.] CHARLES E. HUGHES

[Enclosure]

Draft Treaty of Friendship and Commerce

PREAMBLE

The United States of America and His Catholic Majesty the King of Spain, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship and Commerce and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, ... and

His Catholic Majesty the King of Spain, ...

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes higher than those that are exacted of and paid by nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Article II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

Article III

The dwellings, warehouses, manufactories and shops of the nationals of each of the High Contracting Parties in the territories of the other, and all premises thereto appertaining used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

Article IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the pro-

ceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or nonresident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

Article V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

Article VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

Article VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels

and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Article is designed to restrict the right of either High Contracting Party to impose prohibitions or restrictions of a sanitary character for quarantine purposes designed to protect human, animal, or plant life within its territories.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,[3] or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States

[3] *Foreign Relations*, 1903, p. 375.

with any of its dependencies and the Panama Canal Zone under existing or future laws.

Article VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

Article IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

Article X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

Article XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to

be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

Article XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

Article XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which

are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

Article XIV

(*a*) Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the High Contracting Parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other High Contracting Party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

In case either of the High Contracting Parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this article, or otherwise, enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

(*b*) In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Section (*a*).

(*c*) A commercial traveler may sell his samples without obtaining a special license as an importer.

(*d*) Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped or defaced in such manner that they cannot be put to other uses shall be considered as objects without commercial value.

(*e*) Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six (6) months.

Duties shall be paid on such portion of the samples as shall not have been so withdrawn.

(*f*) All customs formalities shall be simplified as much as possible with a view to avoid delay in the despatch of samples.

(*g*) Pedlers and other salesmen who vend directly to the consumer, even though they have not an established place of business in the country in which they operate, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind which they carry on.

(*h*) No license shall be required of:

(1) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(2) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(3) Travelers who are exclusively buyers.

(*i*) Any concessions affecting any of the provisions of the present Article that may hereafter be granted by either High Contracting Party, either by law or by treaty or convention, shall immediately be extended to the other Party.

Article XV

(*a*) Regulations governing the renewal and transfer of licenses issued under the provisions of Article XIV, and the imposition of fines and other penalties for any misuse of licenses may be made by either of the High Contracting Parties whenever advisable within the terms of Article XIV and without prejudice to the rights defined therein.

If such regulations permit the renewal of licenses, the fee for renewal will not be greater than that charged for the original license.

If such regulations permit the transfer of licenses, upon satisfactory proof that transferee or assignee is in every sense the true successor of the original licensee, and that he can furnish a certificate of identification similar to that furnished by the original licensee, he will be allowed to operate as a commercial traveler pending the arrival of the new certificate of identification, but the cancellation of the bond for the samples shall not be effected before the arrival of the said certificate.

(*b*) It is the citizenship of the firm that the commercial traveler represents, and not his own, that governs the issuance to him of a certificate of identification.

The High Contracting Parties agree to empower the local customs officials to issue the said licenses upon surrender of the certificates of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said customs officials shall immediately transmit the

appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure from the country. Due notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules, plus five business days for purposes of official verification and registration.

(*c*) It is understood that the traveler will not engage in the sale of other articles than those embraced by his lines of business; he may sell his samples, thus incurring an obligation to pay the customs duties thereupon, but he may not sell other articles brought with him or sent to him, which are not reasonably and clearly representative of the kind of business he purports to represent.

(*d*) Advertising matter brought by commercial travelers in appropriate quantities shall be treated as samples without commercial value. Objects having a depreciative commercial value because of adaptation for purposes of advertisement, and intended for gratuitous distribution, shall, when introduced in reasonable quantities, also be treated as samples without commercial value. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries. Samples accompanying the commercial traveler will be despatched as a portion of his personal baggage; and those arriving after him will be given precedence over ordinary freight.

(*e*) If the original license was issued for a period longer than six months, or if the license be renewed, the bond for the samples will be correspondingly extended. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries.

Article XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper customs house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

Article XVII

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most-favored-nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Governments of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and they shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

Article XVIII

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes and subjecting the individual guilty thereof to punishment as a criminal. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso,

however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

Article XIX

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

Article XX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The Consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

Article XXI

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infractions of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

Article XXII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if

drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

Article XXIII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

Article XXIV

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which

the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

Article XXV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

Article XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

Article XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular

offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his encumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited.

Article XXVIII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the Consular Officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

Article XXIX

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

The persons described in this Treaty as nationals of a High Contracting Party shall be understood to be persons deemed by such Party to owe permanent allegiance to it.

ARTICLE XXX

The present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying, by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The present Treaty shall, from the date of the exchange of ratifications, be deemed to supplant, terminate and annul all treaties and conventions previously concluded between the High Contracting Parties.

ARTICLE XXXI

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Madrid as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate this . . . . day of . . . . . 1923.

711.522/26 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *June 6, 1923—6 p.m.*

[Received 7:25 p.m.]

43. Had personal conversation with the King. He said principal objection to treaty was that Spanish ships were not allowed to enter American ports if they had wines on board. He said there was no objection to such drastic supervision as sealing contents until ships left port, but that they might just as well give up all their trade with the United States if their ships were not permitted to enter Porto Rican ports. Do you think there is any possibility that Secretary Mellon will change his ruling on this point? [4]

MOORE

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[4] For the Treasury Department's ruling, see Department's circular of May 3 to the chiefs of missions, vol. I, p. 133.

711.522/33 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *June 8, 1923—4 p.m.*
[Received June 8—3 : 10 p.m.]

45. Today Hackworth [5] was presented to the Minister for Foreign Affairs, who stated that in view of the United States Supreme Court decision last April [6] Spanish ships had nearly decided not to touch at American ports; he went on to say that the situation was most grave, and asked how could he, as Minister of State of Spain, negotiate a treaty of commerce with the United States when the latter's ports were closed to the ships of his country? It was agreed, after difficult conversations with the Minister, that the treaty negotiations, this obstacle notwithstanding, were to be initiated, but the Minister stated categorically that the signing of the treaty would depend wholly upon the finding of an immediate solution to the question of permitting ship's stores to enter territorial waters. The Minister would not entertain the suggestion that the next Congress might enact legislation to the end desired, nor be satisfied with an explanation of the constitutional status of the Supreme Court and the effect of the Court's decisions.

Insofar as this treaty is concerned I wish to call the Department's attention urgently to the seriousness of the situation.[7]

MOORE

711.522/38 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *June 12, 1923—5 p.m.*
[Received 9 : 45 p.m.]

46. From Hackworth:

This morning I had an informal meeting with Lago, the president of the treaty commission, who raised the following objections to the draft:

1. Its complexity; each subject will have to be handled by different offices or departments, and for this reason negotiations will be greatly delayed.

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[5] Green H. Hackworth, Assistant to the Solicitor for the Department of State, sent to Madrid to assist Ambassador Moore.

[6] 262 U. S. 100.

[7] For Department's replies, June 9, proposing a treaty with Spain on sealed stores of liquor and cargo liquor, see vol. I, pp. 149–152.

2. The Spanish tariff law runs counter to the most-favored-nation clause for imports.

Lago stated that it would not be possible for the treaty commission to take on the increased work of new negotiations with the United States (the commission deals with all commercial matters) as it is already working fifteen hours a day and can not stop the negotiations which are pending with other countries; he named particularly Belgium, Germany, and Italy. His attitude seemed to reflect the indifference and fixed point of view which it is said has characterized the negotiations with other countries. He had not, apparently, been apprised of the attitude of the Minister of State, who expressed a willingness to proceed with negotiations. Lago will discuss the matter again with the Foreign Minister and will give his answer at the meeting on Thursday. I am hoping that the attitude of the Minister may change the situation favorably.

In view of the fact that our greatest leverage in the negotiations is the desire of the Spanish Government to arrive at a prompt solution of the ship's stores problem, would it not be more to our advantage to delay presentation of the draft of a treaty that was transmitted in Department's telegraphic instruction No. 27, June 9, 4 p.m.[8] until the Spanish Government shows an inclination to negotiate the treaty? If not, I suggest that the Spanish Government be given clearly to understand that the signing by us of a ship's stores treaty depends entirely upon the prior conclusion of a treaty of amity and commerce.

MOORE

711.522/38 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

WASHINGTON, *June 13, 1923—4 p.m.*

30. Your telegram no. 46 of June 12, 5 p.m. For Hackworth.

(1) The Department has noted the objections of the president of the treaty commission to the draft of the treaty of amity and commerce. The complexity of the proposed treaty is unavoidable.

(2) The Department has also noted the statement that Lago declares our most-favored-nation clause for imports to be directly opposed to the Spanish tariff law. You should inform the Spanish authorities at an appropriate time that under present laws of the

[8] Vol. I, p. 150.

United States the President is authorized to impose additional duties on imports coming from countries which discriminate in fact against commerce of this country. See section 317 of the tariff act.

(3) The Department hopes and believes that the attitude of the Foreign Minister may bring about a favorable change in the situation.

(4) The Department does not desire, if there is any way to avoid it, to condition this Government's acceptance of the proposed treaty on sealed stores of liquor and cargo liquor which is destined for foreign ports upon Spain's acceptance of the proposed treaty of amity and commerce, inasmuch as the Department is now offering the same treaty articles on liquor stores and cargo to France, Great Britain, Italy and Japan.[9] The proposed form of the treaty was communicated today to the Spanish Ambassador here as it had already been communicated to the diplomatic representatives of the countries mentioned above. If the Spanish Government proposes, however, to treat the commercial treaty with indifference or evinces a disposition to delay its execution, then this Government would not have the slightest reason to favor Spain in the matter of liquor on merchant vessels. We should have no hesitancy, therefore, in that event, in informing Spain that if her conduct were not agreeable to the maintenance of commercial relations with the United States substantially upon the basis stated in the commercial treaty, a basis which we believe to be entirely fair, we should not perceive any reason for relinquishing the stringency of the regulations which relate to liquor stores and cargo even were we to negotiate these treaties with other powers. That is to say, we expect to be dealt with in the same considerate manner that we are endeavoring to bring to these questions. From conversations with the Spanish Ambassador it is understood that the situation at present under the Treasury regulations regarding liquor on merchant ships is extremely burdensome on Spain in view of the fact that Spanish ships call at both American and foreign ports in the Caribbean in the course of the same voyages. We do not desire to take advantage of this situation in order to obtain any unreasonable arrangement; on the other hand, it is left to your discretion to make sure the proper safeguarding of American interests before the proposed treaty on liquor stores and cargo is signed.

HUGHES

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[9] See vol. I, pp. 152 ff.

711.522/40 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *June 15, 1923—6 p.m.*
[Received June 15—6 p.m.]

48. Embassy's no. 46, June 12, and Department's no. 30, June 13. From Hackworth:

The statement referring to section 317 of the tariff act had already been made use of at the conference on June 12.

On June 14 at the conference held that date Lago stated that he had not seen the Foreign Minister since the previous conference, but that he and his Bureau of Accounts would begin to study the treaty and would give us their views on it at the meeting with the whole treaty commission within the next two weeks. Lago again went over the statement made at the previous conference on the most-favored-nation clause and indirectly suggested the substitution of a schedule of articles as was done in the British treaty.[10] Component parts of recent treaties would be considered. He stated that the British had proposed a most-favored-nation article that was almost identical with ours, but that they had been required to substitute a schedule.

It seems probable that to stand for general most-favored-nation treatment may jeopard the chances for an early treaty but that what in practice would be the same may be obtained through a schedule made up from the French, British, and possibly other treaties together with stipulations analogous to those in article 5 of the British treaty. If this suggestion meets with the Department's approval we will begin to prepare a schedule of the sort described in cooperation with the commercial attaché, who is well versed in the needs of American shippers, to be submitted to the Department as a possible basis of negotiation should the general most-favored-nation clause meet unrelenting opposition. Lago maintains that the United States is unable to negotiate on the same footing as the British were able to do for the latter as the purchasers of 50 percent of Spain's exports enjoy a favored position.

The draft of the treaty on liquor stores and cargo was submitted June 13.

MOORE

[10] See Great Britain, Cmd. 2188, Treaty Series No. 21 (1924): *Treaty of Commerce and Navigation between the United Kingdom and Spain, Signed at Madrid, October 31, 1922.*

711.522/40 : Telegram

The Acting Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

WASHINGTON, *June 18, 1923—5 p.m.*

31. Your telegram no. 48, June 15, 6 p.m. For Hackworth.

(1) The Department is gratified to learn that the Spanish authorities are beginning study of the treaty and that they will present their views within two weeks.

(2) The Department does not favor the taking of any steps inconsistent with the general plan for use of the unconditional most-favored-nation clause to which this Government is now committed.

You should say that the Government of the United States is definitely committed to the principle of equality of treatment, that it does not wish either to give or to receive preferences or special concessions, that it does not recognize any distinction that may be attempted to be drawn regarding the footing for negotiation between Spain and Great Britain and Spain and the United States, that Spain and Great Britain have accorded to each other what amounts in substance to most-favored-nation treatment, and that the Government of the United States believes that an agreement for unconditional most-favored-nation treatment is the simplest and most certain way to assure and advance harmonious commercial intercourse and to perpetuate the friendly relations which exist between Spain and the United States.

(3) Our new plan is deemed to be of such importance, whether it is initiated by a treaty with Spain or by one with some other state, that the success of its operation ought not to be jeoparded, and the prestige of this Government in its endeavor to utilize it ought not to be weakened by admitting at this stage of negotiation that it is possible the United States would accede to a proposal which is based on a different theory. We believe that the treaty of amity and commerce as it has been proposed offers some unusual advantages, with which you are familiar, to the foreign state which accepts it. The strength of our position as set forth in paragraph 4 of Department's telegram no. 30, June 13, must be fully apparent to the Spanish Government.

(4) You are informed confidentially that if in a few days it develops that there is a dead-lock on the issue of the most-favored-nation clause, the Department will instruct you regarding the proposal of a temporary *modus vivendi* to care for the situation pending negotiations that may possibly be protracted.

PHILLIPS

711.522/54 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *June 25, 1923—5 p.m.*
[Received 7:30 p.m.]

57. I think application for *modus vivendi* should be made at once, as from present indications negotiations will be prolonged, and I should be glad to have instructions referred to in your no. 31 of June 18.

MOORE

711.522/54 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *June 29, 1923—6 p.m.*

39. Your 57, June 25, 5 p.m.

(1) Share your view that application for *modus vivendi* should be made at once.

(2) You will inform Minister of State that discussions between the two Governments have disclosed the existence of certain facts and circumstances relating to commercial relations, especially the following. The present regime of mutual most-favored-nation treatment has proved advantageous to both countries, multiplying interchange of their respective products, and encouraging growth of cordiality between the two countries to the profound gratification of their respective governments and peoples.

The negotiation of the proposed comprehensive treaty of amity and commerce doubtless involves prolonged consideration by both Governments. Any treaty negotiated between them must, in order to become effective, be ratified, in the case of the United States, by and with the advice and consent of the Senate, and in the case of Spain through the approval of the Cortes. The Senate will not convene in regular session until December 1923 and its approval of a treaty with Spain necessarily will be subsequent thereto.

In view of the foregoing considerations it seems to be desirable for the United States and Spain to assure each other that pending the time when a new comprehensive treaty of amity and commerce can be concluded and brought into operation the favorable treatment which each country now accords the commerce of the other will be continued without interruption.

(3) Inquire of the Minister of State whether his Government would be prepared to effect an exchange of notes with the Government of the United States giving expression to such an assurance.

If this proposal be received with favor you might suggest that a basis for such an arrangement could be found in paragraph numbered (Roman) II of the commercial agreement of August 1906 [11] and the second paragraph of the notes exchanged in December 1906.[12] The Department suggests the following as a draft for negotiation:

"The Government of the United States of America and the Government of Spain agree that pending the time when a new treaty of friendship, commerce and navigation shall be concluded and brought into operation between the two countries, the natural, agricultural, and manufactured products of Spain will pay on importation into the United States, and the natural, agricultural, and manufactured products of the United States will pay on importation into Spain the lowest rates of duty in force at the time of such importation on articles of the same kind when imported from any other country, exceptions being made of the special advantages conceded by the United States to Cuba and by Spain to Portugal."

HUGHES

711.522/66 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *July 3, 1923—5 p.m.*
[Received 8:30 p.m.]

62. 1. In a letter dated June 25th I asked the Foreign Minister for a conference with Spanish treaty officials for Hackworth. I stated that he was important expert of our Government; that he had been here three weeks and had not been called into any conference on merits of the treaty. I stated I did not feel justified in requesting permission to keep him here indefinitely and asked a definite answer from the Minister as to when conferences could begin. The following is full text of Minister's reply.

"I have received your courteous letter of June 25th, the contents of which I have examined with great interest.

Both the Government of His Majesty in general and I in particular have given due appreciation of the decision of the Government of the United States to send a technical representative to Madrid so well qualified as Mr. Hackworth in order to negotiate a new treaty between our two countries. We would have desired to place him from the first in relation with the Spanish Commercial Treaty Commission appointed to act in the negotiation of treaties of this class had this not been prevented on one hand by the quantity of work which this commission has on hand as it is conducting simultaneously negotiations with several countries which does not permit it for the moment to undertake another negotiation, and on

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[11] *Foreign Relations*, 1906, pt. 2, p. 1342.
[12] Not printed.

the other hand by the nature of the proposal which you were pleased to make to me. In fact, this is not a simple treaty of commerce to replace the commercial agreement which terminates November 4 next; it is a treaty of general relations between our two countries and requires as such careful and mature study by the various competent Departments of the Government because of the complex nature of the questions which it embraces and the consequences which would result for important Spanish interests from its being decided in one or another sense.

I regret very much that these circumstances prevent us from dedicating all the attention which we would at once have wished to accord to this affair and that Mr. Hackworth did not come at a more propitious time; likewise, as I would have suggested to you, I might have been previously advised of the intention of your Government to send a delegate to Madrid for the purpose.

But in my desire to interpret the sentiments of His Majesty's Government towards the American Government as well as my personal ones toward you, I have instructed the Commercial Treaty Commission to have an interview with Mr. Hackworth in the course of a few days in order that they may communicate to each other their respective points of view with regard to the commercial part and even with regard to the rest of the project if the progress of the study of this part of the treaty permits. It will not be possible to enter into a detailed discussion of the matter for the reasons which have been given nor to treat of other points of the project until the appropriate departments shall have decided with regard to them.

Although this is no time or place to formulate views with regard to the contents of the project, I shall tell you, notwithstanding, that there will be, in my opinion, such numerous and important objections on our part, judging by my deductions from a superficial study, that it does not seem possible to me that the negotiations can be concluded within the short period of time you desire, in view of Mr. Hackworth being obliged shortly to return to his country.

But he will be able to carry with him an impression of our point of view at least as far as the commercial side is concerned; and in order to see if it is possible to anticipate for him the opinion of the competent departments—even if only in a general way—with regard to the other points, I am requesting them to hasten the studying which they are undertaking. After this Mr. Lago will indicate a day to Mr. Hackworth, which I hope will be in the course of next week, for them to hold the interview arranged in principle between them and to which I have already referred above."

2. Have answered the letter by making proposal for *modus vivendi* along the lines your telegram no. 39, June 29, 6 p.m.

3. In order that any failure to bring about a satisfactory arrangement within a reasonable time may be placed where it properly belongs, Hackworth will inform conferences that, if they are ready to take up negotiations and prosecute them to a conclusion, he is prepared to stay as long as there is any prospect of accomplishing anything, but that it is not the desire of his Government that he should remain here indefinitely unless his time can be utilized.

4. The text my note of May [*June*] 25th is incorporated in my letter to Secretary of State, June 26th.[14]

MOORE

711.522/63 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *July 4, 1923—6 p.m.*
[Received July 4—1:10 p.m.]

64. My 62, July 3, 5 p.m. After further consideration we have decided it would be preferable to withhold temporarily proposal of *modus vivendi* in order that we may urge element of time as reason for proceeding at once with negotiations. If at the promised conference we find [it] impracticable to proceed with negotiations, proposal will be maintained for *modus vivendi.*

MOORE

711.522/69 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *July 6, 1923—4 p.m.*
[Received July 7—2:54 a.m.]

66. 1. Had three hours' conference with treaty commission yesterday. Atmosphere generally friendly. Commission stated they were not prepared to talk about other than commercial features but indicated as to other articles that they might be able to accept such provisions as are not in opposition to Spanish law. They indicated preference, however, for separation commercial from general relations stating that nine months would be required for conclusion of treaty along lines present draft.

2. Concerning commercial features commission stated law would not permit acceptance of most-favored-nation clause as proposed but they would give us most-favored-nation treatment through a schedule of arguments [*articles*] provided we give similar schedule and treatment to Spain.

3. They stated the only possible bases of negotiation were: (1) admission of Spanish wine; (2) reduction of tariff on some Spanish products, mentioning especially manufactured cork, licorice, olives, olive oil, and essential oils. This it is stated is necessary under Spanish law (see Hackworth's memorandum of June 13, 1923 [14]).

4. Hackworth explained that under the law and constitution amendment liquors cannot be imported for beverage purposes; that

[14] Not printed.

while the Government controls the importation under the law, to the extent of determining whether liquor is for lawful purpose and may be permitted to enter, it is not an importer or dealer in liquors and consequently cannot agree to take any quantity of wine. They said would be sufficient merely to say that the importation of a certain quantity for lawful purposes would be permitted without in any way committing the Government to the taking of that or any specified amount. Hackworth stated that since all importations would be by non-government agencies the Government could not offer any assurance that the importer would buy Spanish wines nor that any particular kind of wines would be imported since these depend on the one hand upon the choice of the importer and on the other hand upon the question whether the purpose is lawful and the goods needed. These conditions seemed unobjectionable so long as something even of an innocuous nature is provided in the treaty.

5. As to lowering of tariff on certain articles it was explained that this could not be done, that the President is authorized to raise the tariff if other governments discriminate American products but not to reduce it and that he would not by treaty run counter to tariff legislation. They insist that these were the only conditions on which they could negotiate since they are bound by their law as well as we by ours. We stated that while we could not hold out any hopes for the acceptance of their conditions which would mean the breaking down of our tariff and treaty policy the matter would be submitted to the Department for decision of the two points and we would inform them at next meeting.

6. Hackworth fully explained provision 317 of the tariff act and observed that if they persisted in their attitude and placed our trade at a disadvantage under their tariff as they said it would be necessary to do, we in turn would probably be under the necessity of raising our tariff on Spanish products; that our purpose is to prevent such a calamity to the commerce between the two countries, but that we would have to insist on fair treatment. They regard our most-favored-nation treatment proposed as no concession whatever and refuse to concede that their first column [15] is abnormal or punitive in character.

7. After the session Lago stated privately he hoped we could agree and that if we could give reductions on only a few articles it would enable them to negotiate with us. They apparently desire to negotiate but are either maneuvering for advantage or seeking a way to comply with their law.

[15] The "first column" was the Spanish tariff rate imposed on imports from countries whose tariffs discriminated against Spanish products; see also footnote 18, p. 860.

8. [Paraphrase.] Can the treaty be changed, since I have included list of articles for which we desire most-favored-nation treatment as well as list for Spain based on our present tariff schedule, in order to conform to the Spanish law and so expedite treaty, or does the Department still hold to the position set forth in its no. 31, June 18, 5 p.m.?

9. While it is possible that a failure to make any concession may result in our being placed for the time being upon an unfavorable tariff basis, it is my belief that resort to article 317 of the tariff act will lead to a readjustment as soon as Spanish exporters feel the effect.

10. The Embassy would greatly appreciate an immediate reply, for if the Department adheres to its former position a prompt request for a *modus vivendi* should be made if feasible. Important Spanish officials will be leaving soon and it is not likely that any action will be taken on the application for six or eight weeks. [End paraphrase.]

MOORE

711.522/69 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

WASHINGTON, *July 10, 1923—5 p.m.*

42. Your 66, July 6, 4 p.m.

1. The Department is gratified to find the atmosphere friendly and to learn that the commission shows a readiness to accept such provisions as are not in opposition to Spanish law. The Department does not deem it desirable to separate the commercial from the general and other provisions of the treaty.

2. Before giving final answers to your questions the Department must make inquiries to which your telegram gives rise. Should we agree to schedules of articles which would give us unconditional most-favored-nation treatment, and, conversely, give to Spain most-favored-nation treatment for her list, would she be disposed to accept the treaty on that basis? Were we to go so far, would Spain assent to the procedure and not still demand specific reductions of us? Refer to your paragraph 7.

3. Referring to your paragraph 3, does the Spanish law require arrangement for (*a*) the admission of particular articles such as wines, and (*b*) a reduction of the tariff on any specific articles, for example, wines? The Department has noted Mr. Hackworth's memorandum of June 13.[16]

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[16] Not printed.

4. Paragraph 4 of your telegram is not clear. Is the Spanish Government insisting upon the right to import into the United States quantities of wine, no matter how limited, for beverage or other purposes? This Government finds in the statutory law a definite obstacle against an agreement to that end.

5. Referring to paragraph 5 of your telegram, does the Spanish Government understand clearly that under our law we can not give so-called reductions? Does that Government understand as well that under section 317 of the tariff act the President will be obliged to impose discriminatory duties should we fail to obtain most-favored-nation treatment through some appropriate procedure?

6. Regardless of policy to be followed, the Department believes that there should be an immediate request made for a *modus vivendi*.

HUGHES

711.522/72 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *July 11, 1923—5 p.m.*
[Received July 12—12:50 a.m.]

67. While with Minister of State this morning he stated that Spain had only denounced the commercial arrangement and not the treaty of friendship and general relations,[17] that he was willing to proceed at once to the consideration of a commercial treaty alone and that, if it was not successfully completed before November 5th, he would give us a *modus vivendi*, that, if we insisted on a treaty of general relations, he could not tell how much time would be required as it would have to go before so many people and he did not think that it was a matter to be taken up at the present time; that they had many other commercial treaties that had not been completed, but that he was anxious to expedite the commercial treaty with the United States and would take the matter up himself after the Cortes adjourns, which will be very soon. My earnest opinion and that of Hackworth is that, under the circumstances, the treaties should be separated. Recent apparent change in attitude of Spanish officials justify great hope for a commercial treaty and I feel that insistence upon whole proposal will at least delay and may possibly prejudice commercial agreement. I believe the other treaty of general relations could be negotiated later and we could take whatever time is necessary on it, as it is not vital to business interests.

In the light of the foregoing, direct instructions on this one proposition are desired as soon as possible.

MOORE

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[17] For text of treaty of 1902, see *Foreign Relations*, 1903, p. 721.

711.522/73 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *July 12, 1923—noon.*
[Received 7 : 38 p.m.]

68. Your no. 42, July 10, 5 p.m.

1. Paragraph 2, your telegram. Spain will under no circumstances agree to use the term "most-favored-nation treatment", which conflicts with the national laws. We propose to accomplish the same object by submitting a list of the articles which it is desired to export to Spain together with the rates of duty specified for each article; these rates are to be the same as the lowest rates stipulated in treaties between Spain and other countries with general principle like that contained in article 5 of the British treaty; Spain to submit to us a list of articles exportable to the United States on which the rate of duty would be fixed as provided in our tariff act. This is our plan of procedure although the Spanish Government has expressed no agreement to it and no definite suggestion will be made that Government until I shall have received instructions.

2. Your paragraph 3. (*a*) Spanish law does not require the admission of specific articles, wines, for example, but a provision for the admission of wine for all lawful purposes namely, medicinal and sacramental, was made a condition to the negotiation. (*b*) Spanish law does not require a reduction of the tariff on any particular articles, but it does require reciprocal concessions or "advantages" to be made in the treaty for reductions far below the second column.[18] (The Department's attention is invited to the first disposition [*sic*] of the law quoted in Mr. Hackworth's memorandum of June 13[19] and to schedules A and B attached to the treaty with Great Britain.)

3. Your paragraph 4. Paragraph 4 of my telegram was evidently garbled. The Spanish Government understands clearly that the United States can not permit the admission of any liquor for beverage purposes. They were referring to wines for medicinal and sacramental purposes. They desire wine to be mentioned in the treaty in order to satisfy influential Spanish wine interests.

4. Your paragraph 5. Yes. Both matters were fully explained to the Spanish Commission.

5. Your paragraphs 1 and 6. Department will please see my no. 67, July 11, 5 p.m.

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[18] The "second column" was the tariff rate usually imposed, being applicable to countries which did not discriminate against Spain's commerce; although in theory this tariff was the minimum, the Law of Authorization of 1922 permitted conditional concessions, thus creating what was actually a "third column".

[19] Not printed.

6. Our purpose was not to make any concessions unless absolutely necessary to do so, but to ascertain how far we are to be permitted to go if necessary.

MOORE

611.5231/236a : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

WASHINGTON, *July 14, 1923—3 p.m.*

43. Legation's 67, July 11, 5 p.m.

1. Have given due consideration to views of yourself and Hackworth. Department desires to avail itself of Spanish offer to proceed immediately to the consideration of a strictly commercial treaty to supplement the treaty of 1902, with the assurance of a *modus vivendi* to operate until the proposed supplementary treaty is actually in force.

2. Department deems it desirable to confirm oral assurances of the Minister of State. You will therefore address him a note substantially as follows:[20]

"I did not fail to inform my Government of the offer which Your Excellency was so good as to put forward at the time of our conversation on the 11th instant to proceed at once to the consideration of an exclusively commercial treaty with the United States with the assurance that if the treaty is not successfully completed before November 5th next, an appropriate *modus vivendi* will be offered the United States. I have now received the reply of my Government and have been instructed and have the honor to inform Your Excellency that the Government of the United States appreciates the friendly and courteous attitude of Your Excellency's Government in the matter and accepts the proposal of Your Excellency's Government with the understanding that the existing commercial relationship between the two countries, established on the most-favored-nation basis, shall continue in force until such new commercial arrangements as embodied in the treaty shall become actually operative between the two countries.

"Consequently, I hold myself in readiness to present, at such time as may be convenient to Your Excellency, the views of my Government respecting the provisions that may be appropriately incorporated in the commercial treaty in accordance with Your Excellency's proposal."

3. The commercial articles in the draft are the following: 7, 8, 9, 10, 11, 14, 15, 16 and 29. You are instructed to obtain the equivalents of the stipulations contained in article 7 (draft) through general provisions and lists of articles. However, the list given by us

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[20] Text of note not paraphrased.

should stipulate most-favored-nation treatment and not set forth rates. Commercial convention should likewise embrace articles 8, 28, and probably articles 14, 15, and 16. There is so little difference between articles 9, 10, and 11 of the draft and articles 7, 11, and 9 of the treaty of 1902 that the Department believes it unnecessary to have them included in supplementary commercial treaty.

The above paragraph is intended to inform you in a general way of Department's attitude in case the Minister of State should make a satisfactory response. Continue to keep Department informed in order that complete instructions may be sent to you.

HUGHES

611.5231/242 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *July 25, 1923—4 p.m.*
[Received 8:40 p.m.]

74. The short draft of the treaty was discussed in conference with the treaty commission on July 21. No objection to the form of the treaty was raised, and the commission indicated its willingness to accept the schedule with a few minor changes provided we make concessions on a half dozen or more articles in order to justify under Spanish law their giving us the treatment demanded. The commission stated that actual tariff concession was absolutely essential to an agreement.

Mr. Hackworth suggested that the question of what constitutes "equivalent advantages", as the term is used in Spanish law, depends upon its interpretation, and that when the fact is taken into consideration that to place products of the United States on an unfavorable tariff basis will have as a result the raising of our tariff on imports from Spain, possibly even the prohibition of certain Spanish products, the avoidance of the possibility of such a situation's arising might reasonably be thought a decided advantage within the meaning of the law.

The commission indicated that if they had not already negotiated a number of treaties in which the law of Spain was interpreted so as to require actual tariff reductions, it might be possible for them to accept our terms.

After a full discussion, the commission summarized the situation as follows:

1. Under the law of April 22, 1922, Spain can not make reductions below the second column except when made in exchange for reciprocal reductions on the part of other countries below their tariffs.

2. The United States can make no reduction whatever in her tariff.
3. There results a conflict of two tariff systems, and a problem is presented which can only be solved by the Government, namely, the Council of Ministers.

. . . . . .

MOORE

611.5231/243 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *July 26, 1923—6 p.m.*
[Received 8:25 p.m.]

75. Today, during conference with Minister of State, I again suggested *modus vivendi* as a means of stabilizing business pending a final decision on the treaty. He stated that the matter would be taken up by the Council of Ministers on Saturday, and that if the United States would consent to Spain's proposal for an increase of tax or duty on tea, coffee, and sugar in Spanish Morocco [21] it would greatly assist him with certain recalcitrant members. England, he said, had consented a month ago, and the few Americans in the zone were abusing exemption privileges by importing for other foreign merchants. Instructions regarding the matter have been sent to the Spanish Ambassador.

Hackworth remembers that before he left Washington Spain asked us to consent to an increase in certain taxes in Spanish Morocco and that we indicated we would if the taxes applied to all foreigners alike. If we give our consent now *modus vivendi* with most-favored-nation clause would be greatly facilitated. As government officials are leaving and cable service here is not rapid an immediate answer is important.

MOORE

611.5231/243 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *July 27, 1923—5 p.m.*

47. Your 75, July 26, 6 p.m.

On July 19th Spanish Ambassador here was informed that United States understood that Spanish authorities in Morocco had reimbursed the American citizens and protégés who had heretofore paid consumption tax; that this Government was informed that a shipment of Holland gin consigned to Semsar Cohen, an American citizen, at Larache was held by Spanish authorities for payment of tax,

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[21] See Spanish note of Mar. 8, p. 586.

and that provided shipment of gin was released without tax the United States no longer perceives any reason for withholding consent to imposition of consumption taxes on sugar, tea and coffee. American Agency at Tangier on the same day was informed of action taken as indicated above, and was directed to inform American citizens and protégés that neither the Agency nor the Department would in the future support refusal to pay consumption tax. Agency also directed to inform Spanish Agency.[22]

It is hoped that information herein communicated will enable the Spanish Minister of State immediately to arrange *modus vivendi.*

HUGHES

611.5231/274 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 3, 1923—10 a.m.*
[Received 2:45 p.m.]

89. The Spanish Government has informed me it is impossible under their laws to grant prorogation of the treaty without some consideration. They have made the following proposition: If we will consider in our treaty negotiations: First, the authorization of Spain to export to America Spanish wines for scientific, medicinal and sacramental purposes; second, permission to Spanish vessels to enter ports under the jurisdiction of the United States carrying cargoes of wine consigned to other countries under seal in any manner our Government desires as likewise such wines as may be intended for consumption by passengers and crews; third, that the President avail himself of section 315 of the tariff act and order an immediate investigation to discover whether the duties assessed upon vegetable preserves, licorice extract, etc., are not excessive and if excessive that the tariffs be reduced; on its side the Spanish Government would grant most-favorable-nation treatment for a determined number of products of the United States in which we are most interested.

The Spanish Government further states that if the American Government will accept this proposal as a basis of negotiations subsequent amendments would permit the arrangement of a *modus vivendi* or provisional agreement until treaty is concluded.

Please cable me immediately to Madrid whether or not I should accept this proposal or any instructions in the premises.

MOORE

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[22] See telegram no. 19, July 19, to the Chargé at Tangier, p. 590.

611.6231/274 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *October 8, 1923—6 p.m.*

63. Your 89, October 3, 10 a.m.

You are instructed to address a note to the Spanish Government referring to the proposal stated in your telegram and reply thereto textually as follows:

"I communicated your proposal to my Government and am instructed to reply thereto as follows:

1. Spanish wines for lawful purposes are now being imported into the United States on an equal footing with wines from other countries. My Government, while not averse to mentioning wines in a treaty, could not incorporate in the treaty any provision which would give them more favorable treatment than they now enjoy.

2. The conditions under which Spanish vessels might bring without penalty liquors into American ports as cargoes or ships' stores not destined for delivery or consumption in United States were set forth in a proposed treaty on the subject which my Government submitted to the Spanish Government in June last and to which no response has been received. My Government would have no objection to incorporating in a commercial treaty the essentials of that proposal.

3. Section 315 of the Tariff Act of the United States was intended as a means of equalizing the cost of production in the United States and the principal competing countries in cases where it may appear that an American industry is afforded excessive protection under the Tariff Act. While the President has authority under this Section to reduce duties if an investigation by the Tariff Commission should find such action justifiable, the Tariff Act does not associate these reductions with treaty negotiations, and my Government would not care to incorporate in a treaty a provision dealing with matters so essentially of a domestic character which would be inconsistent with the Act.

4. My Government desires me to remind the Spanish Government of the fact that less than a month remains during which the present commercial relationship between the two countries is to continue, and to say that it would appreciate an early indication by the Spanish Government of the treatment to be accorded American imports into Spain after November 5 in order that it may be governed accordingly."

5. Your telegram does not indicate in what manner the Spanish proposal was made. If by note forward text thereof. If orally, you should take occasion to suggest that any further proposals or statements be submitted in writing in order that they may be of record and more carefully studied.

6. For your information and discreet use: The Tariff Commission is now making the necessary study under Section 317 of the Tariff

Act preliminary to invoking the retaliatory provisions of the Act in the event of discrimination against American goods imported into Spain.

HUGHES

611.5231/278 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 8, 1923—7 p.m.*
[Received October 9—1:02 a.m.]

90. Following note received today from President of Spanish Military Directory:

"Putting into writing that which we previously discussed I inform you that I am disposed to agree to defer for six months the aforesaid date of expiration so that the commercial agreement at present in force shall expire on the 5th of May, 1924, or on such previous date as a lasting treaty meanwhile negotiated might be enforced.

Nevertheless such temporary extension of the present [arrangement?] must be conditional on the following:

1. The most-favored-nation clause carried by the present treaty shall be understood in a limited sense so that it shall only allow the United States to claim such advantages as they at present actually obtain thereby, but not to obtain any advantages which any other country might secure from Spain during the time of the extension of the validity of the present arrangement and consequent upon commercial agreements which are at present not yet enforced.

2. Within the aforesaid period of extension there shall be opened and be brought to a conclusion between Spain and the United States adequate negotiations for a new and lasting commercial treaty. To facilitate the success of such negotiations the President of the United States, availing himself of the faculties conferred upon him by section 315a of the United States customs tariff, shall order immediately, and to be completed within the shortest possible period of time, the investigations necessary to determine whether the duty which such tariff establishes on vegetable preserves, liquorice extract, dried almonds, olives, olive oil, cork stoppers, onions, pepper, castile soap, saffron, fish preserves, pistols, revolvers and natural mineral waters, should be considered excessive in view of the conditions of production of such articles in Spain as well as in the United States and if such be the case, shall lower the duties in the proportion necessary to balance whatever differences may be shown in the conditions under which the aforesaid products are produced in the one country and in the other.

3. There shall be authorized the importation either in unlimited quantities or in a fixed contingent to be determined later of Spanish wines for scientific, medicinal, and sacramental purposes.

4. Spanish vessels may enter the ports of the United States or its possessions or pass in transit through the waters under its jurisdiction carrying cargoes of wines consigned to any other country as

likewise wine intended for the consumption of the passengers and crews. With respect to the aforesaid cargoes there might be adopted the guarantee of sealing them in order to secure them from unloading during which [*such?*] time as the vessels would remain in waters under the jurisdiction of the United States."

The Spanish Government requests immediate answer. Please instruct me.

MOORE

611.5231/290 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 17, 1923—12 p.m.*

[Received October 18—12:17 a.m.]

100. I have received tonight the following note [23] from the Foreign Office signed by the President of the Military Directory:

"With reference to our recent conversations concerning the future regime which is to regulate commercial relations between Spain and the United States, I have the honor to inform Your Excellency that I have no objection to agreeing to your proposals and that I am hence willing to agree that the Commercial Arrangement of August 1, 1906, existing between the two countries and which expires on November 5th of the present year, shall be prorogued for a period of six months counting from such date, or, in other words, until May 5, 1924, without, however, such prorogation signifying in any case whatsoever the application, during the course of the six months of its duration, of any commercial change or advantage which may be established in Treaties between Spain and other nations and which may be enforced after the afore-mentioned date.

Hence I consider that the present agreement will be concluded and the aforesaid prorogation consequently agreed upon by the exchange of this note with such note as Your Excellency may address to me expressing your conformity therewith."

Please telegraph the text of my answer as soon as possible.

MOORE

611.5231/290 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *October 20, 1923—3 p.m.*

68. Your 100, October 17, 12 p.m.

Acknowledge note from Foreign Office and reply as follows:

"I informed my Government of the text of your communication and am instructed to reply thereto as follows: The Government of the

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[23] Dated Oct. 6; transmitted to the Department with the Ambassador's despatch no. 124, Oct. 27, p. 871.

United States is duly appreciative of the friendly spirit demonstrated by the Spanish Government in agreeing to continue for a further period of six months from November 5, next, the present commercial arrangement between the two countries. This arrangement evidencing as it does the desire of the two Governments to leave unfettered the commercial intercourse which has subsisted between their two countries for a number of years can have no effect other than to promote the good relations between them which it is the desire of the Government of the United States to perpetuate.

Concerning the statement in your Excellency's note regarding advantages which the Spanish Government may accord to other countries in treaties which may come into force during the period for which the present arrangement has been extended, my Government observes that if this is to be understood as meaning that the Government of the United States may not be entitled to such advantages it must on its part reserve freedom of action with respect to imports from Spain in the event that American goods in Spain are placed at a disadvantage.

My Government desires that in expressing to you its satisfaction with the present temporary arrangement I should inform Your Excellency that the Government of the United States holds itself ready to resume at any time that may be convenient to your Government negotiations with a view to the concluding of a permanent treaty of commerce."

The reference to "the aforementioned date" at the end of the first paragraph of the Spanish note is ambiguous. It apparently refers to November 5 although May 5 is the last preceding date mentioned.

HUGHES

611.5231/292 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 22, 1923—4 p.m.*

[Received 7:33 p.m.]

103. Your 68, October 20, 3 p.m. Minister of Foreign Affairs has just informed me that second paragraph of note is unacceptable as, should some small advantage be granted in future treaty, the United States would have freedom of action to raise its customs duties on all imports from Spain.

The Minister for Foreign Affairs read me cable from Ambassador Riaño stating in part as follows:

"I have been informed by official charged with negotiation of commercial treaty that the Government of the United States is wholly disposed to recommend to the Tariff Commission reductions in customs duties on articles specified by American Embassy Madrid to the Department in Washington, by virtue of section 315a of the

tariff act. The United States Government will not insist on most-favored-nation clause for *modus vivendi* although it would do so for permanent treaty".

Please cable me immediately as to whether Riaño has been correctly informed as it is possible that Foreign Office would substitute statement that the Department will recommend reductions to Tariff Commission for proviso mentioned in my 100, October 17, 12 p.m. to the effect that the United States should not benefit by advantages established by future treaties.

If Riaño has been misinformed please correct him at once as negotiations delayed by his above-mentioned cable.

MOORE

611.5231/293 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 22, 1923—10 p.m.*

[Received 11:45 p.m.]

104. Reference my 103, October 22, 4 p.m. Minister of Foreign Affairs has tonight made definite offer to eliminate from last note on prorogation all mention of exclusion of the United States from benefits of treaties which may be negotiated by Spain during the prorogation, provided you will authorize me to state in writing that our Government will request Tariff Commission to investigate the possibility of reductions on specific articles mentioned in my former telegrams, under section 315a of the tariff act. Please rush reply as American business men here are very much worried.

MOORE

611.5231/293 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *October 23, 1923—4 p.m.*

69. Your 103, October 22, 4 p.m., and 104, October 22, 10 p.m.

In view of Spanish Government's objection to paragraph 2 of Department's No. 68, October 20, 3 P.M. you may eliminate that paragraph from your note to Foreign Office.

Second paragraph your 103 indicates some misunderstanding regarding this matter as Department is not contemplating action under Section 315 of the Tariff Act.

HUGHES

811.5231/294 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

MADRID, *October 23, 1923—7 p.m.*
[Received October 24—12:47 a.m.]

105. Minister of Foreign Affairs has informed me that the Government would be willing to substitute following text for text of note given in my cipher telegram 100, October 17, 12 p.m.:

"Referring to our recent conversations regarding the future regime which shall govern the commercial relations between Spain and the United States, owing to the expiration on November 5th next of the commercial arrangement of August 1, 1906, at present in force between the two countries, I have the honor to inform Your Excellency that I have no objection to acceding to your proposal and am agreeable therefore that the date of the expiration of the above-mentioned commercial agreement be deferred for six months; that is, that it continue in force until May 5, 1924, or, in case a new commercial treaty between both countries is concluded previous to that date, until the date on which this new agreement shall enter into force.

"It is understood that on its part the Government of the United States, in virtue of the faculties referred to in section 315a of the American tariff act, shall arrange, at once and as soon as possible, that an investigation shall take place regarding the customs duties established by the tax on the following Spanish products: vegetable preserves, liquorice extract, dried almonds, olives, olive oil, cork stoppers, onions, pepper, castile soap, saffron, fish preserves, pistols and revolvers and natural mineral waters for the purpose of reducing the respective duties if, upon due investigation, they should appear to be excessive.

"I therefore deem that the present agreement is now terminated by the exchange of this note and the one which Your Excellency will kindly send me expressing his conformity therewith."

If you authorize me to reply to this note in the terms outlined in your cipher telegram 68, October 20, 3 p.m., omitting second paragraph thereof which would no longer be relevant six months prorogation will be obtained. Please rush reply.

MOORE

611.5231/294 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

WASHINGTON, *October 24, 1923—5 p.m.*

70. The Department has received your 105, October 23, 7 P.M. which apparently crossed the Department's No. 69, October 23, 4 P.M.

The Department can deal with but one proposition at a time. In your No. 100 of October 17, 12 P.M. you stated Spanish Government

was willing to prorogue the present arrangement for a period of six months but that such prorogation would not cover any advantages which might be accorded by Spain to other countries in treaties which may be brought into force during this period. By the Department's No. 68, October 20, 3 P.M. you were authorized to accept the proposal with but one condition, namely, a reservation of freedom of action by this Government with respect to imports from Spain in the event that American goods in Spain should be placed at a disadvantage as compared with goods from other countries.

In view of the Spanish Government's objection to this reservation, reported in your 103 of October 22, you were authorized by the Department's telegram of October 23 to eliminate that reservation from your note of acceptance. With the reservation thus eliminated this Government's acceptance will be unqualified. The Department desires that you send a note to the Minister of State accepting the proposal set forth in your No. 100 of October 17, 12 P.M. You can use for that purpose the text of the reply contained in the Department's 68 of October 20, with the second paragraph eliminated and it is hoped that you will be able to bring about prompt settlement on this basis.

HUGHES

611.5231/308

The Ambassador in Spain (Moore) to the Secretary of State

No. 124 MADRID, *October 27, 1923.*
[Received November 13.]

SIR: In confirmation of this Embassy's Cable No. 106, of October 25, 12 Noon,[24] I have the honor to report that the Commercial Agreement of August 1, 1906, has been prorogued for six months from the date of its expiration on November 5th next; i. e., until May 5, 1924. This prorogation has been accomplished by an exchange of Notes between the Spanish Foreign Office and this Embassy (Foreign Office Note No. 119, of October 6th, and Embassy's Note No. 64, of October 22d), copies and translations of which are enclosed.

I am also enclosing copy and translation of a personal letter to me, dated October 22d [*6th*],[24] from the President of the Military Directorate, requesting that I recommend personally to the Department of State that it cause an investigation to be made by the Tariff Commission regarding the customs duties on certain Spanish products. I can make this recommendation in perfect sincerity as I have been repeatedly informed that it is useless to recommence negotiations looking toward the signature of the Permanent Treaty unless

[24] Not printed.

the Tariff Commission should prove willing, after an investigation, to lower the duties on at least several Spanish products. Moreover, the President had already informed me that the Department of State had told Ambassador Riaño (see my Cable No. 103, of October 22, 4 P.M.) that the Department was willing to cause an investigation of certain duties to be made under Section 315 of our Tariff Act. He also told me that, in the negotiations during the early part of the summer, the representative of the State Department and the Commercial Attaché had stated that, while there was no guarantee that any investigations or reductions in the Tariff would be granted, it was within the province of the Tariff Commission to investigate and recommend such reductions. In this connection, I would be very glad to be informed whether or not the Department did inform Ambassador Riaño as alleged by the President of the Military Directorate.

I informed the President that I would recommend to my Government that it take up this matter, but I had previously told both him and the Undersecretary of State that I did not believe that this proposition came within the interpretation of Section 315 of the Tariff Act.

With regard to the suggestion contained in my Cable No. 105, of October 23, 7 P.M., I have the honor to report that I considered it imperative to place the suggestion in question before the Department as, up to the time of the sending of the cable, the Department had proved unwilling to accept in terms acceptable to the Spanish Government the latter's proffer to prorogue the Treaty without giving the United States advantages ceded in future commercial treaties.

The present prorogation has only been secured after the most strenuous efforts, as the attitude of the Spanish Foreign Office has been that, unless some action should prove possible under Section 315–A of the American Tariff Act, a prolongation would prove useless, as no agreement would be possible regarding a permanent treaty.

I am very anxious to recommence negotiations for a permanent treaty without a moment's delay, but, in view of the attitude of the Spanish Government, as outlined above, I have the honor to request full instructions from the Department as to the manner in which it desires the negotiations to be conducted. Will it be possible to make use of Section 315, and, if not, what answer can be made to the Spanish contention that the Spanish Law prevents the granting of most-favored-nation treatment except in return for specific advantages? I also have the honor to request that a representative of the Department of State be sent to Madrid to assist in these negotiations.

As enclosures 6 and 7,[25] I have the honor to transmit, in copy and translation, a notice relative to the prorogation of the Treaty published by the Ministry of State in the *Gaceta de Madrid* of October 28th, 1924 [*1923*].

I have [etc.] ALEXANDER P. MOORE

[Enclosure 1—Translation]

The President of the Spanish Military Directorate, Ministry of State (The Marquis of Estella) to the American Ambassador (Moore)

No. 119 MADRID, *October 6, 1923.*

EXCELLENCY: With reference to our recent conversations concerning the future regime which is to regulate commercial relations between the United States and Spain, I have the honor to inform Your Excellency that I have no objection to agreeing to your proposal and that I am hence willing to agree that the Commercial Arrangement of August 1, 1906, existing between the two countries and which expires on November 5th of the present year, shall be prorogued for a period of six months counting from such date, or, in other words, until May 5, 1924, without however such prorogation signifying in any case whatsoever the application, during the course of the six months of its duration, of any commercial change or advantage which may be established in Treaties between Spain and other nations and which may be enforced after the aforementioned date.

Hence I consider that the present agreement will be concluded and the aforesaid prorogation consequently agreed upon by the exchange of this Note with such Note as Your Excellency may address to me expressing Your conformity therewith.

I avail myself [etc.] THE MARQUIS OF ESTELLA

[Enclosure 2]

The American Ambassador (Moore) to the President of the Spanish Military Directorate, Ministry of State (The Marquis of Estella)

No. 64 MADRID, *October 22, 1923.*

EXCELLENCY: I have the honor to refer to Your Excellency's Note No. 119, of October 6th last, which read as follows:

"With reference to our recent conversations concerning the future regime which is to regulate commercial relations between Spain and the United States, I have the honor to inform Your Excellency that I have no objection to agreeing to your proposal and that I am hence willing to agree that the Commercial Arrangement of August 1, 1906, existing between the two countries and which expires on

[25] Not printed.

November 5th of the present year, shall be prorogued for a period of six months counting from such date, or, in other words, until May 5, 1924, without however such prorogation signifying in any case whatsoever the application, during the course of the six months of its duration, of any commercial change or advantage which may be established in Treaties between Spain and other nations and which may be enforced after the aforementioned date.

"Hence I consider that the present agreement will be concluded and the aforesaid prorogation consequently agreed upon by the exchange of this Note with such Note as Your Excellency may address to me expressing your conformity therewith."

On behalf of my Government I accept the prorogation of the Treaty in the manner outlined in Your Excellency's abovementioned Note.

The Government of the United States is duly appreciative of the friendly spirit demonstrated by the Spanish Government in agreeing to continue for a further period of six months from November 5th next the present Commercial Arrangement between the two countries. This arrangement, evidencing as it does the desire of the two Governments to leave unfettered the commercial intercourse which has subsisted between their two countries for a number of years, can have no effect other than to promote the good relations between them, which it is the desire of the Government of the United States to perpetuate.

My Government desires that, in expressing to Your Excellency its satisfaction with the present temporary arrangement, I should inform Your Excellency that the Government of the United States holds itself in readiness to resume at any time that may be convenient to Your Excellency's Government negotiations with a view to concluding a permanent Treaty of Commerce.[26]

I avail myself [etc.] ALEXANDER P. MOORE

611.5231/303 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, *November 3, 1923—1 p.m.*

[Received 1:28 p.m.]

109. Spanish Government will not take up matter of our commercial treaty until middle of next February because of intention to appoint a new treaty commission before then. The present commission will be dismissed when it finishes the negotiations now pending with Italy regarding commercial treaty.

MOORE

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[26] The two foregoing paragraphs were omitted from the text of the Ambassador's note as printed in U. S. Treaty Series No. 693–A, their omission being indicated by asterisks.

SWEDEN

ARRANGEMENT BETWEEN THE UNITED STATES AND SWEDEN FOR RECIPROCAL EXEMPTION FROM INCOME TAX ON SHIPPING[1]

811.512358 Shipping/10

The Swedish Minister (Wallenberg) to the Secretary of State

WASHINGTON, *January 27, 1922.*

EXCELLENCY: In accordance with instructions received from my Government I have the honor to inform Your Excellency that the Swedish Government, after having acquainted itself with Paragraph 8, Section 213, of the new American Revenue Law for 1921, mentioned in the note of the Department of State dated December 21, 1921,[2] regarding exemption from taxation of ships of a foreign country granting equivalent exemption to citizens of the United States, has noted with great satisfaction the principle emphasized in said paragraph.

I am further authorized to state that my Government has immediately taken under consideration the adoption of such measures as will prove to the satisfaction of the United States' Government, that American shipowners reciprocally are exempted from taxation in Sweden.

The Government of Sweden interprets the American law in this instance as intended to express the principle that exemption from taxation on terms of reciprocity is desirable in order to promote the mutual interests of the United States and other countries. The above mentioned principle having been agreed upon, and provision for its application incorporated in the new American Revenue Law, the Government of Sweden begs to express the hope that such legislative measures may be taken as will have the effect of making the said provision effective, not only as from January 1, 1921, but will also cover the years 1917, 1918, 1919 and 1920. When framing statutes regarding the exemption from taxation of foreign shipowners in Sweden, the Swedish Government will be guided accordingly.

As a matter of fact, I understand that the shipowners of Sweden have generally understood that the exemption now in force in Amer-

[1] For identic notes, dated June 16 and 17, 1920, submitted severally by Denmark, Norway, and Sweden, see under Denmark, vol. I, p. 881.

[2] Not printed; similar in form to, and identical in substance with, the note of Dec. 21, 1921, to the Danish Minister, vol. I, p. 886.

ica would cover past as well as future taxes, and they have not prepared their tax returns for that reason. They have now been advised that the present law, strictly construed, may not apply before January 1st, 1921. Because of their prior understanding, they will not now be able to complete the preparation of their returns by February 14th, when their time expires. Under these circumstances, I am instructed by my Government to ask that, pending the advice of Your Excellency, a further extension of six months may be granted Swedish Shipowners within which to file their returns.

With renewed assurances [etc.] AX. WALLENBERG

811.512358 Shipping/11

The Swedish Minister (Wallenberg) to the Secretary of State

WASHINGTON, *February 24, 1922.*

EXCELLENCY: In my note of January 27th last, I had the honor to state, among other things, that my Government had, by reason of the provision in the Revenue Act of November 23, 1921, which provides for the exemption from taxation of the income of a non-resident alien or foreign corporation consisting of earnings derived from the operation of ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States, taken under consideration the adoption of measures which would grant equivalent exemptions from income taxation in Sweden to American ship owners.

I am now authorized and directed by my Government to advise and assure Your Excellency, and I hereby do advise and assure Your Excellency,

1) that income of non-resident foreign individuals, companies, and corporations, derived from the operation of ships documented under the laws of the United States, is not now taxed in Sweden, in any manner whatsoever;
2) that the same tax-exemption was effective even further back than January 1, 1917 and
3) that no change with regard to the existing tax exemption is contemplated by the Swedish authorities.

In this connection and in view of the fact that tax-exemption existed in Sweden even further back than January 1, 1917, I again beg to express, on behalf of my Government, the hope that some means may yet be found by Your Government to accord tax-exemption for income derived in this country from the operation of Swedish ships not only from January 1, 1920 [*1921?*] on, but also for the years 1917, 1918, 1919 and 1920.

With renewed assurances [etc.] AX. WALLENBERG

811.512358 Shipping/12

The Secretary of State to the Swedish Minister (Wallenberg)

WASHINGTON, *May 16, 1922.*

SIR: I have the honor to refer further to your note of February 24, 1922, in which you express the hope that it may be possible for this Government to exempt from taxation the income derived in this country from the operation of Swedish ships, not only from January 1, 1921, but also during the years 1917 to 1920 inclusive, and to state that in the statutes now in force no provision is made for the exemption from taxation by this Government of the income derived from the operation of foreign ships prior to January 1, 1921.

Accept [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

811.512358 Shipping/14

The Swedish Minister (Wallenberg) to the Secretary of State

WASHINGTON, *May 30, 1922.*

EXCELLENCY: I have the honor to acknowledge the receipt of Your note of the 16th instant, by which you were good enough to inform me that in the statutes now in force no provision is made for the exemption from taxation by the United States Government of the income derived from the operation of foreign ships prior to January 1, 1921.

The Swedish Government, being aware of this circumstance, had, however, in view of the facts:

1) that income of non-resident, foreign individuals, companies and corporations, derived from the operation of ships documented under the laws of the United States, is not now taxed in Sweden in any manner whatsoever; and
2) that the same tax exemption was effective even further back than January 1, 1917,

cherished the hope that the United States Government would deem it proper to enact such legislative measures as would extend the same exemption from taxation from the United States Government for the years prior to January 1, 1921.

Under such circumstances I beg leave to again apply for Your Excellency's kind intermediary, in order that the question may be submitted to Congress for such legislation as would secure a satisfactory arrangement between our two countries.

With renewed assurances [etc.] AX. WALLENBERG

811.512358 Shipping/16

The Secretary of State to the Swedish Chargé (De Lagerberg)

WASHINGTON, *August 9, 1922.*

SIR: I have the honor to refer further to your note of May 30, 1922, in which you express the hope that it may be possible to modify the statutes now in force in this country, so as to provide for the exemption of Swedish shipowners from the payment of income taxes for the years 1917 to 1920, inclusive, and to state that the appropriate authorities advise the Department that they can not see their way clear to recommend to Congress any modification of the statutes as you suggest.

Accept [etc.] CHARLES E. HUGHES

TURKEY

AMERICAN PARTICIPATION IN THE LAUSANNE CONFERENCE ON NEAR EASTERN AFFAIRS

First Phase

[This collection of papers is not designed to give a complete account of the Lausanne Conference, but only an account of American participation. The minutes of the Lausanne Conference and texts of the agreements signed at Lausanne between the Allies and Turkey are printed in *Conférence de Lausanne sur les affaires du Proche-Orient (1922–1923), Recueil des actes de la Conférence* (Paris, Imprimerie Nationale, 1923). The records of the first phase of the conference, not including the minutes of the subcommittees, are printed by the British Government in Cmd. 1814, Turkey No. 1 (1923): *Lausanne Conference on Near Eastern Affairs, 1922–1923, Records of Proceedings and Draft Terms of Peace.* Texts of the agreements signed at Lausanne July 24, 1923, are printed by the League of Nations in Treaty Series, volume XXVIII, and by the British Government in Cmd. 1929, Treaty Series No. 16 (1923): *Treaty of Peace with Turkey, and Other Instruments, Signed at Lausanne on July 24, 1923*, etc.]

767.68119/26

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Under Secretary of State (Phillips)

[WASHINGTON,] *September 19, 1922.*

MR. PHILLIPS: In the course of an informal discussion with regard to the situation in the Near East, Craigie, First Secretary of the British Embassy, asked me whether, in my opinion, there was any chance of this Government's consenting to send a representative to take part in the Near Eastern settlement. I said that I could not answer this but that I would be glad to mention to Mr. Phillips that the question had been raised. Craigie said that he did not wish to make an official inquiry but that it would be helpful if at any time we could give them an informal hint as to whether we would consent to be represented. He left with me the impression that there might be some hesitation about sending us an invitation to the Conference if it were unlikely to be favorably considered.

A[LLEN] W. D[ULLES]

767.68/378a : Circular Telegram

The Secretary of State to the Ambassador in Great Britain (Harvey)

WASHINGTON, *September 26, 1922—4 p.m.*

In answer to an inquiry [1] at the Department of State today with respect to the attitude of the Government of the United States toward the proposals made by the Allies to the Turkish Nationalist authorities, I declined to comment upon the territorial questions involved, but stated unequivocally the approval by this Government of the proposal to insure the freedom of the Straits and protection of racial and religious minorities. My statement was as follows:

"The American Government is gratified to observe that the proposal of the three Allied Governments seeks to insure effectively 'the liberty of the Dardanelles, the Sea of Marmora and the Bosphorus as well as protection of racial and religious minorities'. These points of the proposal are clearly in accord with American sentiment.

This Government also trusts that suitable arrangements may be agreed upon in the interest of peace to preserve the freedom of the Straits pending the conference to conclude a final treaty of peace between Turkey, Greece and the Allies."

Repeat to Paris, Rome and Constantinople.

HUGHES

767.68119/5 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 5, 1922—11 a.m.*

[Received October 6—1:17 a.m.]

238. It is presumed that the Department appreciates the importance of immediately formulating the precise nature and extent of our sympathy in the approaching Near East settlement in view of the conference now taking place at Mudania and the likelihood that in the near future a peace conference will be convened. There must also be a decision regarding time and method for negotiating with the Turks as well as possibly with the Allies. As the United States is one of the capitulatory powers with extensive vested interests in Turkey, we cannot afford to remain inactive while the Allies give their consent to important changes in the capitulatory regime. The Department may wish therefore to bring the vital interests of the United States in this phase of the settlement to the

[1] During an interview by the press.

attention of the Allied Governments and to suggest that while a conference at Paris may settle in principle the reform of capitulations, there should be an express reservation of the details of such reform for consideration at a conference of all the powers concerned. Even if the United States were actively represented at the coming peace conference it would be hard for us to offset the tendency of the Allies, the French especially, to concede to the Turks as much as possible so as to secure a peaceful adjustment of the present crisis. We have such a different point of view from the Allies that in my opinion it would not serve our purpose to take part in the peace conference and by involving ourselves in the consideration of matters of no direct concern to us we might prejudice our real interests. It must be realized that for our Government officially to identify itself at a peace conference with the cause of the Christian minorities would increase still more our difficulty in dealing with the Nationalists with respect to the future of our benevolent institutions and concerning our capitulatory rights. In case it is not practicable to hold a conference on capitulatory rights the only other plan I can suggest is to negotiate a separate agreement with Turkey as soon as the Government at Constantinople and the Nationalists get together and we can deal with a central authority. It will be exceedingly difficult for us to carry on these negotiations as we will be faced by Turks flushed with recent military and possibly diplomatic victory and we will have but little means of bargaining.

BRISTOL

767.68119/20 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *October 12, 1922—11 p.m.*
[Received October 13—4:40 p.m.]

460. Curzon has just accorded me a long interview, the substance of which is as follows:

He earnestly hoped that in the coming conference our Government would take as active a part as might be possible under our traditional policy of detachment from purely European affairs. He said he understood perfectly that we were under no obligation to take a hand in devising a new treaty to replace the one negotiated at Sèvres,[2] and that he would not think of pressing for such participation. But he felt that, with our important shipping interests, the

[2] For text of treaty, see *British and Foreign State Papers*, 1920, vol. 113, p. 652.

United States could justly claim the right and might properly wish to take part in drawing up in common a plan for securing the free passage of the Straits. He had even judged from things said in Washington that the Department did indeed feel disposed to participate. If so he was convinced that the cooperation of the United States would make it much easier to arrive at a scheme for the proper security of the Straits to the advantage of all concerned. Invitations to the conference would be issued by the Allies jointly, and he had therefore no authorization to address an invitation to the United States. But he had no doubt that the inviting powers would at once adopt and act upon a proposal from him to request the participation of our Government. He was heartily prepared to offer the suggestion to them, but would hesitate to do so, of course, if the United States were not disposed to accept; that is, he would not wish to take the responsibility of having proposed advances which would be repulsed, to the injury of the whole enterprise. He requested me, therefore, to sound my Government, in close confidence and for his guidance, on whether they would be favorably or unfavorably inclined.

In order to be sure of his meaning, I asked if I should understand him to say that he wished to be informed whether the United States Government would be inclined to take part in arranging only for the free navigation of the Straits, but with a clear understanding that in other matters the American representatives would not join in the discussions in any way and would not assume any sort of obligation either named or implied. Lord Curzon replied that I had taken his meaning precisely. He added that it was still uncertain whether the question of the Straits would be referred to a special conference, but that certainly it would be discussed as a separate issue altogether. They had not yet fixed upon the time and place of meeting. He said there was no place in Turkey which would be unexceptionable, and that probably the choice would fall upon Lausanne or some other place in neutral territory. An early date would be most expedient, and he trusted that a day not later than November 15 would be named. But perhaps a month would elapse before the matter of the Straits could be brought up, as other questions would be discussed first.

The question of the protection of minorities was not mentioned between us. . . .

. . . . . .

HARVEY

767.68/458 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

[Paraphrase]

LONDON, *October 18, 1922—noon.*
[Received 2:18 p.m.]

470. In a conversation with me yesterday Austen Chamberlain [3] took great pains to tell me for repetition to you how much he personally appreciated your published statement approving the attitude of the British Government with respect to the freedom of the Straits.[4] He confirmed what Curzon had said to the effect that the British had been materially strengthened in their negotiations with other powers by your statement. Chamberlain's utterance was entirely his own and not connected with Curzon's inquiry concerning the possibility of your participation in a conference, of which he had not been informed. Chamberlain said that he wanted me to impress on the American Government that the British statesmen were all convinced that Great Britain and America, no matter how much they might differ regarding procedure or details, inevitably and irresistibly approached international problems from the same point of view and that the British statesmen, therefore, heartily welcomed the cooperation of the United States in respect to such questions by way of suggestion or otherwise. Chamberlain added that often the British did not seek consultation which they thought might be mutually advantageous because they did not desire to appear importunate or to cause suspicion that they might be attempting to entice us into a situation into which we would not want to be drawn. He most earnestly depicted their general attitude, stating that it should now be looked upon as a cardinal principle of the policy of the British Government irrespective of the party or men who might be in office. Rather more than ordinary significance should be attached to this declaration because Chamberlain holds an enviable position as a man of absolute honesty and good faith which is conceded by even his most bitter political opponents.

. . . . . .

HARVEY

[3] Leader in the House of Commons in the Coalition government which resigned Oct. 19, 1922.

[4] See telegram of Sept. 26 to the Ambassador in Great Britain, p. 880.

767.68119/30 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *October 26, 1922—1 p. m.*
[Received 2:50 p.m.]

432. Your 327 October 19, 7 p.m.[5] Foreign Office informs me that no preliminary conversations between the Allied Powers have been held concerning the Near East settlement except in regard to place, date and invitations to be issued. It is practically settled that the conference will take place at Lausanne on November 13th. It is planned to have two conferences, one for the peace treaty and revision of the Treaty of Sèvres in which the Principal Allied Powers and Turkey will participate and the other for the settlement of the question of the freedom of the Straits at which certain additional interested powers will participate.

Up to the present there has been no intimation by the French Government that the United States will be invited to participate.

HERRICK

767.68119/51b : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *October 27, 1922—7 p. m.*

344. Repeat immediately to London as Department's 330 and Rome as Department's 159.

Department desires you to hand a copy of the following communication, to be entitled "Aide Memoire", to the Minister of Foreign Affairs, on Monday, October 30th:

"The Conference proposed for the purpose of drawing up a treaty of peace with Turkey will have primarily to deal with the problems resulting from the state of belligerency between the Allied Powers, Turkey, and Greece. The United States was neither at war with Turkey nor a party to the Armistice of 1918 and does not desire to participate in the final peace negotiations or to assume responsibility for the political and territorial adjustments which may be effected.

While maintaining this reserve in regard to certain phases of the Near East settlement the Government of the United States does not desire to leave the impression that it regards its interests as less entitled to consideration than those of any other Power, or that it is disposed to relinquish rights enjoyed in common with other powers, or proper commercial opportunity, or that it is unconcerned with the humanitarian interests involved.

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[5] Not printed.

For the purpose of clarity certain subjects of particular American concern may be briefly summarized.

(1) The maintenance of capitulations which may be essential to the appropriate safeguarding of non-Moslem interests.

(2) The protection, under proper guarantees, of philanthropic, educational and religious institutions.

(3) Appropriate undertakings in regard to the freedom of opportunity, without discrimination or special privilege, for commercial enterprise.

(4) Indemnity for losses suffered by Americans in Turkey as a result of arbitrary and illegal acts.

(5) Suitable provisions for the protection of minorities.

(6) Assurances touching the freedom of the Straits.

(7) Reasonable opportunity for archeological research and study.

This brief summary, while not exhaustive, may serve to indicate the general nature of American interests. To safeguard such interests and to facilitate the exchange of views the Government of the United States is prepared to send observers to the proposed conference if this action is agreeable to the Powers concerned. Without participating in the negotiations of the treaty of peace, these observers would be able to indicate this Government's position in greater detail than is possible in this *Aide Memoire* and they could also inform the American Government of the attitude of other Powers in matters where there are mutual interests.

As the object in view in submitting this suggestion is the elimination of any possible cause of misunderstanding, it is considered appropriate to call attention to the attitude of the United States in respect to secret treaties and agreements. It is not felt that arrangements previously made with respect to Turkish territory, which provide for the establishment of zones of special commercial and economic influence, such, for example, as the Tripartite Agreement of 1920,[6] are consonant with the principle of the equality of economic opportunity. It is assumed that the Allied Powers will not now desire, and do not now intend, to carry into effect previous arrangements of this nature.

The United States has no desire to take any action which might embarrass the Allied Powers in the proper effort to secure peace. It desires nothing which need conflict with the interests of other countries, if the principle of commercial opportunity for all nations is recognized at the outset. The United States has no intention of seeking for itself or its nationals a position of special privilege but it desires to protect its rights and to assure the Open Door. Finally it wishes to afford protection to its citizens who wish to continue the humanitarian work which has been carried on for generations in the Near East and is rendered more essential than ever by the present conditions."

Acknowledge receipt.

HUGHES

[6] For text of treaty, see *British and Foreign State Papers*, 1920, vol. 113, p. 797.

767.68119/51a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *October 27, 1922—8 p.m.*

345. Repeat immediately to London as Department's 331 and to Rome as Department's 160.

This Government is prepared to send observers to follow and report on the negotiations for a settlement in the Near East. To acquaint you with this Government's position with relation to this settlement the following is sent for your confidential information and guidance:

(A) As the United States is not at war with Turkey it will not be a signatory of the treaty of peace concluded to put an end to this war or a party to the conference for the purpose of negotiating such a treaty. It is appreciated, however, that it will be practically impossible for the Allies to conduct negotiations without dealing with matters in which this Government is interested.

(B) To permit the Allies to conclude their negotiations without any attempt to present Department's views or to obtain assurances for protection of American interests would leave this Government with a *fait accompli* so far as the relations between the Allies and the Turks were concerned. It would be difficult for us to obtain better terms than the Allies had arranged while we would probably not be in a position to share some of the advantages which the Allies might have obtained for such concessions as they might have felt called upon to make.

(C) The following course of action has therefore been determined upon:

(1) A memorandum giving a statement of the nature and scope of American interests in the Near East will be communicated to the British, French and Italian Governments and later to other Governments if this appears to be desirable. This would serve as a caveat and a basis upon which we could take the part of a candid friend with interests to be protected.

(2) American observers will be present during the course of the negotiations, ready at any opportune or critical moment to interpose the necessary word for our protection. If it appeared that there was a common interest to be served as, for example, with respect to capitulations, protection of educational institutions, et cetera, we would be advised by our observers and in a position immediately to express our point of view.

(3) We shall be prepared to avail ourselves of the first appropriate opportunity to make a treaty with Turkey to protect American interests. Whenever suitable assurances can be received from Turkey which would permit the negotiation of such a treaty full powers could be sent.

The interests which the Department would desire to protect can briefly be summarized as follows:

OUTLINE OF AMERICAN INTERESTS

(*1*) *Capitulations.*—The Department appreciates that the Turks will in all probability strongly oppose the retention of the capitulations and that the Allies may take divergent views, certain Powers perhaps consenting to barter particular rights under the capitulations for concessions without value for us. It will be difficult, if not impossible, for the United States to maintain the capitulations intact, as would be desirable. It is felt, however, that we should insist upon the retention of the capitulations which are essential to the protection of American citizens. As regards economic capitulations which refer to measures of taxation, customs dues, et cetera, certain concessions might be made provided satisfactory guarantees of another nature to protect American business enterprise could be obtained.

(*2*) *Protection of American Educational Philanthropic and Religious Institutions.*—The list of institutions recognized by the Sublime Porte in 1907 should be brought up to date and Turkey should recognize them collectively and individually, grant rights to hold property in the corporate name of the institution, permit reopening of institutions closed since 1914, the establishment of new schools, the use of the English language, and the enjoyment of privileges of Ottoman institutions as regards taxation and customs exemption.

(*3*) *Protection of American Commercial Interests.*—We should oppose the policy of spheres of influence, exemplified by Tripartite agreement signed at Sèvres August 1920 and maintain the principle of the "Open Door" and equality of opportunity. Assurances should be secured that discriminatory taxation will not be levied and if capitulatory right of consent to any change in tariff be abandoned satisfactory guarantees for trade and commerce should be obtained.

(*4*) *Claims for Damages.*—Any new arrangement we may make with Turkey should include provision for indemnities for requisitions, loss of life or property resulting from illegal action of Turkish authorities since 1914.

(*5*) *Protection of Minorities.*—American sentiment demands that this Government exert its full influence to protect minorities. As a result, however, of deportations since 1915 it is believed that a relatively small number of Christians remain in Anatolia and it will be difficult to formulate any effective plan for insuring protection of the scattered remnants of the Christian population in Asia Minor. The most feasible solution of the problem might possibly be an exchange of Christian and Moslem minorities in Asia Minor and Greece. The question of the Christian minorities in Europe, particularly in Constantinople, is one of special interest to this Government and we shall exert appropriate influence for their protection.

The question of the homeland of the Armenians may be raised. It is possible that upon the return of more settled conditions in Russia, the Russian Caucasus may offer the best refuge for Armenians from Turkey.

(*6*) *Freedom of the Straits.*—Of the two phases of this question relating to the time of peace and the time of war, the Department is not disposed to become involved in commitments concerning the

latter, particularly when Turkey or the Great Powers of Europe may be the belligerents. It is of distinct interest to this Government, however, to obtain effective assurances that the Straits would be open in time of peace for both merchant ships and ships of war to proceed to Constantinople and through the Black Sea. This Sea is a highway of commerce and should not be under the exclusive control of Turkey and of Russia.

(7) *International Financial Control.*—The Commission controlling the Ottoman Public Debt, some 60 per cent of which are held in France, 22 per cent in Germany, 14 per cent in England and Holland, composed before 1914 of French, British, Italian, German, Austrian and Turkish members, administers six important sources of Ottoman revenue and largely influences trade and commerce. If Turkey should apply to us for a loan, the possibility of its consolidation with existing foreign debt would place us in an advantageous position respecting the administration and liquidation of the latter. Both financial and commercial questions in general should receive careful consideration.

(8) *Archeological Research.*—American institutions are particularly interested in securing adequate provision to permit archeological research and study in Turkish territory.

(9) *General Observations.*—This Government may further desire to conclude with Turkey naturalization and parcel post conventions.

To summarize: While it is neither natural nor desirable that we should participate in the peace conference or become involved in the negotiations regarding policies and aims in which we have no share it is essential that the Department should be constantly in command of adequate information, keen for the protection of American interests, ready to throw the full weight of our influence to obtain assurances for the freedom of the Straits and the protection of minorities, candid as to our views and in a position at any suitable time to make the separate agreement which at some time must be made with the Turkish Government recognized by the Powers. No point of advantage should be forfeited, no just influence lost, no injurious commitments made. We should maintain the integrity of our position as an independent power which has not been concerned with the rivalries of other nations which have so often made the Near East the theater of war.

Department's 344 will give you text of *Aide Memoire* to be handed to Minister for Foreign Affairs. In submitting this communication you may orally make guarded use of substance of information given above in paragraphs (A) and subheadings (1) and (2) only of (C) and points (1), (2), (3), (4), (5), second sentence only of (6), and (8). Note points (7) and (9) are not to be discussed and most careful use should be made of information in second sentence of point (6) regarding freedom of Straits in any oral conversations.

HUGHES

767.68119/36

The British Embassy to the Department of State[7]

The Governments of Great Britain, France and Italy are inviting the Governments of Japan, Roumania, Yugoslavia, Greece and Turkey to send representatives to Lausanne on November 13th to conclude a treaty of peace to end the war in the East. They are also inviting the Russian and Bulgarian Governments to send representatives, at a date to be fixed later, to participate in the discussions which the conference will undertake, in the course of its proceedings, on the subject of the Straits.

The three principal Allied Powers recall that a representative of the United States Government was present at San Remo in the final stages of the proceedings of the Supreme Council which led to the drafting of the Treaty of Sèvres in 1920. They would welcome the presence of a United States representative at Lausanne in a similar capacity or in a more active capacity, especially in the discussion upon the question of the Straits.

WASHINGTON, *October 27, 1922.*

767.68119 P 43/1a : Telegram

The Secretary of State to the Ambassador in Italy (Child)

WASHINGTON, *October 28, 1922—7 p.m.*

161. The President desires you to be one of the observers to be present at Lausanne during the peace conference. Mr. Grew, the American Minister at Berne, will be associated with you in this work, and in addition, Admiral Bristol will be requested to be present in Lausanne for such time as he can be appropriately spared from his post at Constantinople. The Department is advising Mr. Grew and Admiral Bristol accordingly. Department will take up with you and Mr. Grew later the question of secretarial and clerical personnel.

HUGHES

767.68119/49 : Telegram

The Ambassador in Italy (Child) to the Secretary of State

[Paraphrase]

ROME, *October 30, 1922—6 p.m.*
[Received October 30—5 p.m.]

208. *Aide-mémoire* contained in your 159, October 28,[8] has been delivered. It is impossible under existing political conditions to

[7] Identic notes were received from the French and Italian Ambassadors.

[8] See telegram no. 344, Oct. 27, to the Ambassador in France, p. 884. No record of a reply by the Italian Government to this *aide-mémoire* has been found in Department files.

make contact with responsible Italian officials in order to amplify by conversations the purpose of the *aide-mémoire*. As soon as possible this will be done.

CHILD

767.68119/54 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *October 31, 1922—12 noon.*

[Received 12:55 p.m.]

499. I presented your *aide-mémoire* to Curzon last evening.[9] He glimpsed it page by page with keen interest chatting freely as he read. The United States could not be expected to sign a peace treaty with Turkey when she had never been at war with Turkey. Quite so. Quite right. But necessarily she was concerned in the terms of settlement because her many and varied interests were inextricably involved. Her representatives or "observers" then were as he judged to be empowered to elucidate and amplify the fundamental propositions set down by the Secretary of State promptly as occasion might require. That was good, businesslike and would be timesaving and helpful.

Would they attend all sessions? I replied that that was a matter of procedure only which would be covered doubtless in your instructions to the delegates. Very good. Nevertheless it was, as I must realize from my own experience and observation, a matter also of importance. It would be awkward, difficult, embarrassing and "invidious" for the American delegation to remain in their rooms in a hotel awaiting a call only when the conference considered that they should be summoned. He trusted that they would be directed to attend all sessions and be ready to answer any questions respecting the attitude of the United States which they did not consider necessary to refer back to their Government and feel equally free to make any inquiries for the information of themselves and their Government. In this way only could the full advantage of their disinterested counsel, judgment and attitude be obtained.

This as to the main peace conference. The convention for drafting measures to safeguard the freedom of the Straits was to be subsequent and separate. Many countries were to participate in that convention which would not be asked to the peace conference—all of the bordering states for example interested necessarily. I asked if he had read Lenin's declaration that the Soviet Government would demand representation in the peace conference. (*New York Times*

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[9] See telegram no. 344, Oct. 27, to the Ambassador in France, p. 884.

Sunday[10] I assume.) He had, yes, and did not doubt it was authentic. But their claim would be resisted and he believed denied.

He could not escape the conclusion pronounced to me in our previous interview, as I cabled,[11] that the United States [as a] maritime power in her own interest as well as in common interest ought to participate to the full in the Straits convention. He still hoped that the situation would so develop that my Government and the American people would appreciate the propriety, wisdom and obligation of this sharing of responsibility for maintaining great open waterway as a wide-open door. That existing conditions prevented the adoption of such a policy at the moment he could readily understand. His hope was that those conditions might change.

As to capitulations so far as I could judge his views were identical with ours. The Angora Government would make a determined stand for their complete extinguishment he did not doubt. But that was out of the question. Modification with respect to terms, et cetera, assuredly but neither yielding on essential safeguards. He had been gravely concerned by the French attitude on this subject but was feeling much easier now. The French nationals in Constantinople had become panic-stricken and through their chamber of commerce had made vehement protest to Poincaré which did not see daylight until in some mysterious way Pertinax[12] got hold of it and revealed just enough to frighten the Government into revising approaching reversion [*sic*] of their position.

He was still uncertain as to whether Angora would consent to inclusion of the Sublime Porte in the conference. Very hard on the poor Sultan he thought. But was not that after all, I inquired, a purely domestic matter? To which he responded with equal solemnity that such in the circumstances it probably must be considered.

HARVEY

767.68119/67 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *November 2, 1922—9 p.m.*

[Received November 3—1:15 a.m.]

443. Referring to Department's 344, October 27, 7 p.m., and 345, October 27, 8 p.m. Reply to *aide-mémoire* of October 30 just received from Foreign Office. French Government states therein that it will take every precaution, during conference on Near East, for

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[10] Oct. 29.

[11] See telegram no. 460, Oct. 12, from the Ambassador, p. 881.

[12] Pen name of André Geraud, French journalist.

protection of American interests inasmuch as the interests of the Allied Powers, and of France in particular, are similar. But it goes on to say that it is plain that circumstances will not render the undertaking easy, since there is every evidence to show that Angora will decline to grant privileges formerly enjoyed by foreign officers. In the opinion of the French Government, however, if concessions are to be secured the practical assistance of the American Government will not be without some efficacy. The French Government also declares in conclusion that it has not had at any time a wish to conclude or uphold secret pacts which the American Government might regard as detrimental to its interests.

When receiving the *aide-mémoire* Poincaré said of the capitulations that to maintain them would not be easy and would be perhaps impossible. Of equality of opportunity in commerce, he intimated that objections might be raised by the Italians. Referring to the tripartite agreement of 1920, he stated definitely his belief that it could not be maintained. He expressed himself, in closing, as much gratified that at the conference there would be a representative of the United States Government. He seemed to refrain intentionally and with his habitual reserve from unnecessary discussion or comment.

During the interview almost the only matters which drew remarks from M. Poincaré were the capitulations and the tripartite agreement, neither of which was included in my press summary mentioned in 442, November 2.[13]

HERRICK

767.68119/86

The British Ambassador (Geddes) to the Secretary of State

WASHINGTON, *November 7, 1922.*

MY DEAR MR. SECRETARY: I am just in receipt of a telegram from Lord Curzon stating that a number of considerations arising out of the political position in Constantinople, Rome and London render it impossible that the Lausanne Conference should meet as early as November 13th next. The date will probably have to be postponed till the latter part of month. His Majesty's Government are in communication with the French and Italian Governments on the subject and I will not fail to inform you at once as soon as definite proposals can be made.

I am [etc.] A. C. GEDDES

[13] Not printed.

767.68119/128

The British Ambassador (Geddes) to the Secretary of State

No. 840 WASHINGTON, *November 9, 1922.*

MY DEAR MR. SECRETARY: With reference to my letter of the 7th instant, I hasten to let you know informally that I am just in receipt of a further telegram from the Secretary of State for Foreign Affairs in regard to the Lausanne Conference. Lord Curzon informs me that, in view of the urgent representations which have been made as to the desirability of as early a meeting of the Conference as is possible, he has accepted the date of November 20th and hopes that final arrangements may now be made for that day.

I am [etc.] A. C. GEDDES

767.68119/101 : Telegram

The Ambassador in Great Britain (Harvey) to the Secretary of State

LONDON, *November 9, 1922—6 p.m.*

[Received 11:50 p.m.]

524. Department's 330 via Paris.[14] Acknowledging receipt of *aide-mémoire* handed by me to Lord Curzon on October 30, Foreign Office states in note dated November 8 that British Government "will welcome the presence of one or more United States representatives at Lausanne for the purposes indicated."

HARVEY

867.0145/8

The Senior Member Present of the General Board, Department of the Navy (Rodgers) to the Secretary of the Navy (Denby)

G.B. No. 438 WASHINGTON, *November 10, 1922.*

(Serial No. 1151)

Subject: American Policy as to Freedom of Navigation of the Dardanelles.

Reference: (*a*) Secretary of the Navy's confidential letter No. S.C.203–5 of November 9, 1922.

The General Board has considered the following question in accordance with instructions contained in reference (*a*):—

"Having in view the present and prospective Near East situation and the present and prospective interests of the United States in the Near East, what should be the American policy regarding the control and navigation of the Dardanelles?["]

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[14] See telegram no. 344, Oct. 27, to the Ambassador in France, p. 884.

2. The vicinity of the Dardanelles has always been one of international tension incident to the centering of ethnological conflicts and of highly important international trade routes—both land and sea. American interest in the Near East, as elsewhere, is closely allied with any arrangements that will promote world-peace. That solution of the Dardanelles question which will give the greatest prospect of lasting peace in the Near East is likely to accord best with American interests.

3. Certain features of the Dardanelles question change but little from decade to decade. The permanency of these features indicate them as the basis of arrangements concerning the Dardanelles. These features will be discussed briefly.

4. The Dardanelles is a great public highway provided by nature leading to a sea that washes the shores of Turkey, Russia, Roumania, Bulgaria, and some lesser states, and that receives the waters of five great navigable rivers. This sea in consequence does not belong to a single power as it once did, but belongs to all the world as a part of the highway of trade. Any and every attempt to block or impede the access of sea-borne commerce to this sea,—the Black Sea,—is subversive of world organization and contrary to world interests, as it will set up international pressures and tensions that will lead inevitably to renewed wars.

5. Russia, potentially one of the greatest of world powers, exports in normal times one-half of all her products via the Black Sea. Russia has no other sea outlet comparable in importance with that through the Dardanelles. The importance to Russia of this outlet will increase greatly with the growth of Russian population, and, especially, with the improvement of Russia's means of internal transportation. No solution that imposes an artificial barrier between so great a power and the sea can contain within it the elements of permanency,—of stability.

6. A large part of the commerce of Austria, Czecho-Slovakia, Hungary, Jugo-Slavia, Roumania and Bulgaria finds its way to the high seas via the Danube and the Dardanelles. This commerce too requires freedom of exit. The necessity for equal freedom of transit in both directions needs no argument.

7. The considerations briefly outlined above have led to a general acceptance by the powers and by Turkey of the principle of freedom of passage through the straits for the merchant vessels of all nations. Experience in many places throughout the world has shown that the acceptance of a principle is not always sufficient to secure its impartial execution. The administration of affairs that follows, and is supposedly based upon, the acceptance of the principle is fully as important as the acceptance of the principle itself in deter-

mining the course of events. Until conditions in the Near East are stabilized equality of opportunity is best secured by equal participation in administration by the interested parties.

8. The granting of freedom of passage through the Dardanelles is not in itself sufficient to secure for American ships the same opportunities as may be enjoyed by the merchant ships of other powers. We must secure by agreement equality of rights and the same privileges as other foreign powers in all that relates to commercial and naval operations. With no attempt at enumeration we may mention the dependence of successful maritime commerce on radio, cable, fuel, wharfage, lighterage, pilotage, anchorage, towage, and inspection facilities. The insidious effect of discriminatory treatment in these respects may handicap our ships so badly as to drive them out of business.

9. Attention is particularly invited to the fact that, due to the present political and economic condition of all territories tributary to the Black Sea, the general situation is that of a new and as yet unorganized market of prodigious size offering the greatest opportunity to trade enterprise; and that steps taken and arrangements made now may influence profoundly our commercial life in the future. We can not claim special rights, but we can with full justice insist on equal rights.

10. The question of freedom of navigation of the Dardanelles for vessels of war is more complex and less capable of permanent settlement than the questions relating to merchant vessels. Whatever rights of navigation of the Straits are granted to other than Black Sea powers must of necessity be granted to the Black Sea powers themselves. When there are no naval powers bordering on the Black Sea that maintain fleets of importance in that sea it is to the interest of other powers, and especially to those powers that have political or economic ambitions in the Black Sea to have the navigation of the Dardanelles open to their vessels of war. They are thus able to use at least the show of force to further their interests. When there is a fleet of importance based within the Black Sea the interest of other powers regarding freedom of navigation of the Straits for vessels of war is reversed and they then desire that no force may issue from the Black Sea to interfere with or to be in a position to threaten their interests elsewhere. They are then willing to forego the advantages of access for themselves to gain the security that comes from a virtual internment of Black Sea fleets. The destruction of the Russian Black Sea fleet entirely changed the policy of Great Britain in relation to the Dardanelles. The General Board believes that the natural solution of the question, as well as the one most favorable to American interest and influence

in world affairs is complete freedom of navigation of the Straits for all vessels of war.

11. There is no parallel between the necessary status of the Dardanelles and that of the Panama Canal. In the Dardanelles the history of instability, of conflicting interests, of discriminatory treatment, of sole access of powers to the sea and so forth, in addition to the fact that nature provided the Dardanelles while America provided the Panama Canal should separate very effectively the two questions in all their aspects.

12. The Straits are natural water ways that in equity belong not to one power but to all. Furthermore, every solution of their control so far attempted that has been based on the rights of one power as against other powers has been a provocative solution. The question has never been settled because all solutions have been partial to the power at the time dominant.

13. Regardless of the principles that may be adopted nothing but superiority of force, either on the spot or available, will be adequate to maintain, against the vital interest of a great power or against the vital interest of Turkey, freedom of navigation of the Straits in time of war. If the fortifications are razed, the potential control of the Straits in war will be shifted to the British fleet. The demilitarization of Mitylene, Lemnos, Imbros and Samothraki, if proposed, would be distinctly in line with the future control of the Straits by naval forces instead of by fixed fortifications. This would mean British control because at present the British fleet with its outlying bases is strongest of all fleets.

14. No law nor treaty is likely to prevent blockade in time of war if the blockading nation is sufficiently powerful on the sea.

15. Experience has shown that control of the Straits by Turkey has been neither impartial nor stable, and that Turkey is unavoidably susceptible to outside pressure. This fact indicates that, under present conditions, international control of the Straits is less open to objection than control by Turkey. No single foreign power could be expected to do otherwise than favor unduly its own commerce were it placed in control of the navigation of the Straits.

SUMMARY

16. The General Board is of the opinion that American interests demand:

(*a*) That if an international commission of control of the Straits is set up, the United States have representation on the international commission of control and in all positions subordinate to that commission, equal to that of any other foreign power.

(*b*) That the Straits, including the Dardanelles, the Sea of Marmora, and the Bosphorus, be open to the free navigation of the merchant ships of all flags without distinction or preference.

(*c*) That the United States and its nationals have the same rights and privileges within and adjacent to the waters above mentioned as are possessed or may be granted to any other foreign power or to its nationals. These privileges to include all such matters as the erection and operation of radio stations, the establishment and operation of fuel depots and storehouses, the use of cables, pilotage, lighterage, wharfage, towage, inspection, clearance, etc., and the use without discrimination of public commercial facilities.

(*d*) That the Straits including the Dardanelles, the Sea of Marmora, and the Bosphorus, be open to the free navigation of the vessels of war of all flags.

(*e*) That no belligerent right be exercised and no hostile act committed within the Straits including the Dardanelles, the Sea of Marmora, and the Bosphorus.

(*f*) That all fortifications commanding these waters be razed and that no new fortifications be erected.

W. L. RODGERS

767.68119 P 43/24 : Telegram

The Ambassador in Italy (Child) to the Secretary of State

[Extract—Paraphrase]

ROME, *November 13, 1922—4 p.m.*
[Received 4:23 p.m.]

223. . . . I hope that there will be no move to have the conference give official recognition to our observers, as I consider that the entire essence of wise tactics is to be sufficiently close to follow every move but not close enough to have questions asked of us constantly. My preference is to be an observer sought out for consultation, not one in the position of seeking admittance. . . .

CHILD

767.68119/36

The Secretary of State to the British Ambassador (Geddes)[15]

The Department of State has received the communication of His Britannic Majesty's Ambassador dated October 27, stating that the Governments of Great Britain, France and Italy are inviting the Governments of Japan, Roumania, Yugo-Slavia, Greece and Turkey to send representatives to Lausanne to conclude a treaty of peace

[15] The same, *mutatis mutandis*, to the French and Italian Chargés.

to end the war in the East, and that they would welcome the presence of United States representatives at Lausanne in a capacity similar to that of the representative of the United States Government who was present at San Remo in 1920, or in a more active capacity.

Previous to the receipt of the British Ambassador's communication, instructions had been sent to the American Ambassadors in London, Paris and Rome to communicate to the respective governments on October 30 an *aide-memoire*[16] briefly outlining this Government's attitude toward the proposed conference at Lausanne and indicating that American representatives would be present for the purposes stated in the *aide-memoire* if this were agreeable.

To supplement this Government's communication of October 30 and in reply to the memorandum of October 27, the Secretary of State takes pleasure in advising His Britannic Majesty's Ambassador that the President will be pleased to designate as such representatives the American Ambassador to Italy and the American Minister to Switzerland. The High Commissioner at Constantinople will be associated with Ambassador Child and Minister Grew during such time as his present duties may permit.

WASHINGTON, *November 14, 1922.*

767.68119 P 43/24 : Telegram

The Secretary of State to the Ambassador in Italy (Child)

[Paraphrase]

WASHINGTON, *November 15, 1922—1 p.m.*

175. Your telegram of November 13, 4 p.m. Your suggestion concerning the status of our observers at Lausanne has received my careful consideration. I appreciate their force, but the situation at the Genoa Conference was different. At Lausanne American interests will be directly involved and sooner or later we will have to negotiate a treaty of amity and commerce with Turkey in order to protect them. On the other hand we have never been a party to territorial settlements in the Near East nor to any treaties terminating wars with Turkey. Should this Government take part in the peace negotiations looking to the ending of war and the making of territorial settlements in the Near East, it would be appropriate that it should become a party to the resulting treaty. The American Government has no intention of doing this and in not doing so it does not evade any proper responsibility. Along with those matters, however, there will be considered the other questions mentioned in our *aide-mémoire* of October 30,[16] and these are so very important

[16] See telegram no. 344, Oct. 27, to the Ambassador in France, p. 884.

that the American Government must not neglect any opportunity to obtain full information, to clearly state its position and to give support where it has interests in common with others and to oppose measures threatening such interests.

The function of the observers was stated as exactly as possible in the *aide-mémoire* of October 30. The Department considers it important that you should be given an appropriate place in the conference and attend the sessions. You should state the American position if at any time it seems necessary. In view of our direct interests it would expose us to serious criticism were we to keep aloof from the sessions and very likely would put in jeopardy opportunity for complete observation and the use of appropriate influence. The understanding that you are to observe and report, and not to commit yourself without instructions, will fully safeguard your position. You are of course free to affirm the position of the American Government as set forth in its *aide-mémoire*.

HUGHES

767.68119/160 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 20, 1922—12 noon.*
[Received November 20—10:18 a.m.]

3. The selection of a permanent chairman seems to be a matter difficult to agree upon, and it is said that the presidency will be offered to a representative of the United States. We perceive no sufficient ground for acceptance unless the Department believes there would be a positive increase in prestige or other advantage. Immediate instructions requested.

CHILD
GREW

767.68119/160 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 20, 1922—6 p.m.*

2. Referring to Mission's 3, November 20. Department thinks it would not be fitting that a representative of the United States preside at Lausanne, and you should endeavor to avoid a formal request by making clear the Department's attitude if you are approached informally.

HUGHES

767.68119/170 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *November 21, 1922—9 p.m.*
[Received 10:45 p.m.]

7. Opening session yesterday with the President of Switzerland in the chair was public and purely ceremonial . . . First committee on territorial and military questions with two American delegates meets tomorrow morning under presidency of Curzon. No further plenary sessions at present.

At this morning's session American delegation made following statement:

Mr. Chairman: The American delegation desires to express its sense of pleasure in having association with the delegates of the powers composing the Conference of Lausanne.

It is our understanding and we trust it is the understanding of the conference and its secretariat that our present position is that of the representatives of the United States who in plenary and other sessions including those of commissions and committees will be entitled to be present and to be heard in equality with other members, but we are to have no right of voting nor obligations of taking office, presiding or otherwise, or of becoming signatories of agreements or reports.

The American delegation will make one contribution to the conference—its statements will be direct and brief.

In reply the chairman said participation of American representatives in the manner described is cordially welcomed. America is deeply interested in question[s] before conference. Although their participation must be restricted, conference is happy to count on their presence. Curzon expressed particular enthusiasm with statement that our remarks would be direct and brief and hoped that this example would be followed by all delegations.

CHILD
GREW

767.68119/174 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 22, 1922—8 a.m.*
[Received 4:55 p.m.[20]]

8. Private and confidential interview requested by Secretary of Turkish Legation for himself and Djelal-ed-Din Bey. Child's report follows:

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[20] Telegram in two sections.

Turks asked what we thought of mandates and zones of influence. I replied that the American attitude should be evident from our Government's refusal to receive a mandate and its traditional principles favoring the Open Door, and also from a review of the record of past experiments in zones and mandates and from a consideration of the rank held by such nations as adhered to rule of Open Door rather than of special privilege. The Turks clearly wished to satisfy themselves that the United States would not be in favor of a scheme of zones and mandates, which is offensive to their Nation and Government and which they are anxious to prevent.

The Turks declared positively and with vehement protestations that there are no secret clauses in the treaty between France and Angora.[21]

They held that surviving remnants of minorities in Turkey are small, and they undertook to supply reliable statistics as soon as received from home. They acknowledged that in the present state of popular sentiment and in present mood of National Assembly it is quite out of the question to give up any Turkish territory in which to establish minorities. They said that the Greeks and Armenians were not wanted, partly because of racial antipathies and partly because any minority becomes an instrument of foreign intrigue, like an unhealed wound both painful and exposed to infection. They were aware of the strength of sentiment in America, and they professed a desire to furnish guarantees as binding as possible if provision could be made for emigration of minorities and their progressive diminution. They agreed that prisoners should be exchanged at once.

The Turks declared positively that their Government wished for participation of American interests in Mosul oil lands as great as and greater than the share taken by any other power.

They stated emphatically that they were ready to assent to all our wishes regarding American missions, philanthropic establishments, properties, and archeological enterprises. Indemnities, however, were not explicitly mentioned.

They represented the capitulations as an accumulation of centuries of grants by unprincipled governments, and they urged that, instead of the capitulations, other satisfactory arrangements could be made for safeguarding the property and commerce of foreigners.

They professed complete readiness to clear the way for a treaty or agreement with the United States by supplying information through their trade and law experts or by any other possible means. They take it for granted that before there can be any commitments they must conclude a treaty of peace with the Allies, and this assumption is somewhat enlightening as regards their hope for a treaty of peace.

Supplementing the above report, we wish to express to the Department our belief that the Turkish representatives here are in embarrassing difficulties. On one side are the representatives of the

[21] For text of agreement, see Great Britain, Cmd. 1556, Turkey No. 2 (1921): *Despatch from His Majesty's Ambassador in Paris Enclosing the Franco-Turkish Agreement, Signed at Angora on October 20, 1921.*

powers who have shown thus far only a disposition to override them, and on the other is the National Assembly with an insatiable national pride and intent upon a diplomatic triumph.

. . . . . .

CHILD
GREW

767.68119/178 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 22, 1922—3 p.m.*
[Received 8:15 p.m.]

11. The powers will not be inclined to ask for measures of relief for the Armenians which would involve territorial sacrifices by Turkey, as Angora objects intensely to any reduction of its territory to form areas of refuge for minorities. To what extent should we go in raising and supporting a point which may not be accepted and which will arouse Turkey's resentment?

CHILD
GREW

767.68119/178 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 24, 1922—2 p.m.*

8. Replying to Mission's 11 of November 22. It is the desire of the United States Government to support any constructive measure designed to obtain due consideration for the welfare of Christian minorities in Turkey, in which this country takes a deep interest. Desiring particularly to prevent the expulsion of minorities during the inclemencies of winter, the Department charges you in your discretion to seize every occasion to bring to the attention of the Turkish delegates that their case is being seriously injured in the eyes of the world by their failure to indicate plainly that it is neither their purpose nor their wish to evict a population of more than a million in circumstances which are sure to inflict the extremities of privation and even death. See Department's 4 of November 21 [22] for statements of Admiral Bristol which you could employ in your informal representations.

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[22] Not printed; for statements of Admiral Bristol referred to here, see his telegrams no. 326, Nov. 15, 1922, and no. 338, Nov. 19, 1922, *Foreign Relations*, 1922, vol. II, pp. 958 and 961.

Department concurs in your opinion that the Turks would be unwilling to surrender any territory for the occupation of an independent Armenian nation. Moreover, it is the view of the Department that even should Turkey be forced to give up certain areas in Cilicia or along the Caucasus frontier, the Armenians would still not enjoy complete inviolability. The idea that later on the Ottoman Armenians might be united with the Russian Armenians in the northeast has been entertained by the Department, but appears impracticable in present economic situation. . . .

The Department desires you to discover if possible by consulting other delegates and to report again by telegram whether the Allies have developed projects for the relief of the Armenians. But you should, on your own part, avoid making any proposals.

HUGHES

767.68119/159 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 24, 1922—6 p.m.*

9. Under the Treaty of Versailles (article 258) and the Treaty of St. Germain (article 209) Germany and Austria are deprived of seats on the Council for the Administration of the Ottoman Public Debt. Great Britain, France and Italy are left in control. Article 246 of the Sèvres Treaty is evidence that those three powers desire to keep undivided authority.

In view of the wide powers of the debt council, its exclusive control by Great Britain, France, and Italy might work to the disadvantage of American commercial interests.

The Government of the United States itself will not, of course, engage in making loans, but it is possible that a situation will develop in which the private financial interests of this country would wish to undertake a loan although the Department has as yet no intimation of such a design. Under those circumstances it might become necessary to consider whether the American credits should be consolidated with the older Turkish debts and whether a seat on the debt council might not be assigned to the United States.

It is not yet desirable that the position of this Government be defined, but any change in the course of affairs and an expression of your own views should be communicated to the Department. The Department's policy toward a possible American representation on the debt council could be formulated only after a consideration of specific developments, and it would be affected, naturally, by the degree of concern shown among trading and banking circles in

this country. But in the opinion of the Department it would be unfortunate if the three powers were to so regulate the Ottoman debt to the advantage of their own nationals in Turkey as to injure the interests of the United States.

HUGHES

767.68119 T&M/6 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *November 25, 1922—3 p.m.*
[Received 5:40 p.m.]

19. Following statement made by Child this morning's session of commission.[23]

1. On termination of discussion on Thrace when other subjects to which the Open Door policy might apply were ready for discussion.

"It is not and will not be the concern of the representatives of the United States to express at this conference views which have not for their bases the legitimate national interests of the United States or those humanitarian considerations which I assume are shared by every delegation present. We will, however, and I trust acceptably, state, when the occasion arises, the position of the United States. We believe that a convenient and appropriate occasion has now arisen.

It is not unknown to those who have observed the history of conferences and negotiations that few subjects may be considered by themselves. I am not referring to the specific subject under discussion, but all the various points of negotiations must, in the end, be considered as a unit, and it is often true that not one detail of a negotiation can be [considered] as isolated from the others. The representatives of the United States are unable, therefore, to hear concluded a discussion of any territorial settlement which, in its turn, may affect other settlements, without drawing the attention of the conference to certain traditional principles of the foreign policy of America. Reference to this policy was made in an *aide-mémoire* delivered to the Ministers of Foreign Office [*Affairs*] of the three inviting Powers on October 30th,[24] less than one month ago, in the following words:

Insert from *aide-mémoire* beginning 'As the object in view' to 'assure the Open Door'.

[The passage to be here inserted reads as follows:

'As the object in view in submitting this suggestion is the elimination of any possible cause of misunderstanding, it is considered appropriate to call attention to the attitude of the United States in respect to secret treaties and agreements. It is not felt that arrangements previously made with respect to Turkish territory which provide for the establishment of zones of special commercial and economic influence, such, for example, as the Tripartite Agreement

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[23] First commission on territorial and military questions.
[24] See telegram no. 344, Oct. 27, to the Ambassador in France, p. 884.

of 1920, are consonant with the principle of the equality of economic opportunity. It is assumed that the Allied Powers will not now desire, and do not now intend, to carry into effect previous arrangements of this nature.

The United States has no desire to take any action which might embarrass the Allied Powers in the proper effort to secure peace. It desires nothing which need conflict with the interests of other countries, if the principle of commercial opportunity for all nations is recognized at the outset. The United States has no intention of seeking for itself or its nationals a position of special privilege but it desires to protect its rights and to assure the Open Door.']

This conference may be glad to know that the overwhelming sentiment of the people of the United States is in favor of this policy, not only as a national policy, but as one which, [were it] to be adopted by every nation on the earth, would be in contrast, perhaps, to the [search for territorial] or other special privilege on foreign soils, a powerful element in the establishment of any stable peace, a foundation for a greater equity in the relation of nation with nation, and the basis for a more progressive economic development of territories.["]

CHILD
GREW

767.68119T&M/7 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 25, 1922—11 p.m.*
[Received November 26—11 : 10 a.m.]

22. Our telegram 19, November 25, 3 p.m. We understand that the American and European press has displayed considerable interest in the statement regarding the traditional policy of the United States toward the Open Door which we made in today's session, and that certain intentions are being read into the statement which cannot be justified either by its text or by the manner in which it was presented. We submit the following comments for your information.

For obviously good reasons the statement was given to the press through the press board of the conference as well as by the American Mission with the chairman's approval. The only comment we have made is that the statement means just what it says and nothing else. Curzon, who presided, told us at the close of the session that it was an appropriate time for us to make our statement.

Tonight we have talked with the head of the Italian delegation, Garroni. He was cordial and took great care to make clear that the Open Door for America would be included in any Italian aspiration in the Near East.

It has come to our attention that various attempts are being made to enter into secret agreements, and to permit them to continue without stating our position would mean that later we would be faced by accomplished facts, and then it would be futile to state our policy

in defense of our legitimate interests. Another reason for making our statement at this time was that if we did so later when the interests of some one nation should be involved, it would easily be distorted and given the interpretation of an expression of dissent from the view of a particular nation or of an attempt to protect some hidden American interest. In the future when occasion arises, as it doubtless will, we can refer to this general statement.

It seemed that today's occasion clearly invoked the Department's instructions that our observers should be present during the negotiations, ready to put in the necessary word to protect our interests at any critical or opportune moment. See Department's telegram to Paris 345, October 27, 8 p.m.[25]

CHILD
GREW

767.68119/212 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 27, 1922—1 p.m.*
[Received 4:55 p.m.]

25. Ismet Pasha called upon Child and engaged in conversation. In discussion his manner was that of a soldier rather than of a diplomat, and his thinking also seemed to be rigid and literal. He asserted that the instructions of his Government were very strict touching those matters which bore upon Turkey's freedom to administer her own affairs. He supposed, therefore, that the capitulations would be a serious hindrance in negotiation, and bespoke for himself the fullest tolerance for the attitude he must take under dictation of a lively nationalist sentiment at home. It would be demonstrated, he said, that the juridical system in Turkey had in it no element which need give foreigners any anxiety for their safety. It was suggested to him, however, that legal usages and procedure were of hardly less consequence than the formal laws, and that in Turkey's own proper interests it might seem best for the Turkish Government to continue to give its best endeavors toward the protection of foreign interests and to do so in a way which would wholly satisfy them. Ismet was informed that a strong and wide public sentiment in the United States would be affected by any apprehension for the safety of American religious and educational establishments in Turkey, and he was eventually led on to inquire whether he could do anything toward counteracting what he called the Armenian and Greek propaganda by issuing a reassuring state-

[25] *Ante*, p. 886.

ment. In reply he was told that the American delegation in its wish to be helpful entertained the belief that opinion in the United States would be very grateful for such reassurances.

CHILD
GREW

767.68119T&M/8 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 27, 1922—2 p.m.*
[Received November 27—12:26 p.m.]

26. No truth in any press reports that our Open Door statement was shown to anyone outside of the American delegation or that we consulted any other delegation. Such reports may be absolutely denied. The reasons for making our statement were as given in our 19 of November 25, 3 p.m., and our 22 of November 25, 11 p.m. It was not our purpose to express in any respect the attitude of any other country.

CHILD
GREW

767.68119/174 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 27, 1922—2 p.m.*

10. Department was much interested in your no. 8 of November 22. Department wishes to know whether Djelal-ed-Din Arif Bey is a member with full powers of the Turkish delegation, and whether he fairly represents his colleagues in the views he has expressed and which you have reported in your telegram.

In your opinion, to what guarantees would the Turks agree for the protection of Christian minorities? Department would be glad to receive from the Turkish Government a definite assurance that it had no desire to compel at this time an evacuation of Christians from Thrace, Constantinople, and Anatolia; a statement that it is ready to consult the views of the representatives of the other powers at Lausanne regarding means for the proper regulation of emigrations from Anatolia and for the safety of remnants left behind; and also the consent of the Turkish Government to measures enabling male relatives of refugees to rejoin their families. It is only reasonable, however, that the Turks should expect to receive pledges

that persons to whom such permission is granted could not later be employed to fight against Turkey.

What protection do the Turks propose to give to American philanthropic establishments? With regard to capitulations, you should seek an early occasion to obtain further particulars as to what proposals for the protection of foreigners the Turks may have in mind.

HUGHES

767.68119T&M/7 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 27, 1922—5 p.m.*

12. For Ambassador Child:

Mission's 19 and 22, November 25, 3 p.m. and 25, 11 p.m. President Harding and I strongly approve your statement which was timely and appropriate.

HUGHES

767.68119/211 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 27, 1922—6 p.m.*

[Received November 27—5 : 16 p.m.]

29. Circumstances have brought the subject of the Ottoman public debt before the first subcommission of the Commission on Financial and Economic Questions for immediate discussion. It is necessary that our policy be determined immediately. As the Department has requested our views [26] we have drafted the following sentence as a statement of our position:

The American delegation wishes to suggest to the first subcommission of the Commission on Financial and Economic Questions that equity and foresight demand that the Council for the Administration of the Ottoman Debt be constituted so as to provide for the membership of any nation or nations to the government or nationals of which is owed a substantial share of the national debt, either now or in the future, whether the debt arises from unpaid indemnities or from loans.

We are taking this position not only in our own interest but as one which may be supported by reason. At present we see nothing to be gained by a reluctance to put our position on record. As in-

[26] See telegram no. 9, Nov. 24, to the Special Mission at Lausanne, p. 903.

structed by the Department, we will refrain from making representations pending further instructions.

CHILD
GREW

767.68119/211 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 29, 1922—2 p.m.*

18. Your telegram of November 27, 6 p.m. Your proposed statement is not approved by the Department as it seems possible to give it the following construction:

1. That representation of Austria and Germany on debt council is contemplated by the United States in spite of provisions to the contrary in Versailles and St. Germain treaties.
2. That our Government is unduly eager for indemnities and is advocating this assimilation with the problem of the debt as an additional guarantee of our possible claim and as a method whereby American representation on the council may be obtained.
3. That the membership of the council could vary from time to time as debt holdings were transferred from nationals of one nation to nationals of another.

Any widening of the functions of the debt commission which might lead certain powers to make an effort to have the commission assume prerogatives assigned to the financial control commission by the Treaty of Sèvres would not serve our interests.

It might be said that so far as the proposed statement relates to a new loan in which American citizens might share, participation of a proper kind might be suitably arranged in the administration relating to it. If such a loan were for consolidation or refunding the entire indebtedness would be covered by this.

The attitude of the Department will remain as set forth in our telegram of November 24, 6 p. m., in the absence of further information with respect to the intention of the other powers.

HUGHES

767.68119/219 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 29, 1922—3 p.m.*
[Received November 29.]

36. Your 10, November 27, 2 p.m. Djelal-ed-Din Arif Bey is representative at Rome of the Angora Government. He attended the

Genoa Conference where he exerted a powerful influence on Russian negotiations. At Lausanne he has been political adviser to the Turkish delegation. He is thought to be comparatively unyielding and to represent the Assembly at Angora in its effort to limit concessions by Ismet Pasha.

Ambassador Child is still sounding out the Turks with respect to guarantees for minorities and the possibility of a grant of territory which might lead to segregation. The following are replies to your questions:

1. In a conversation with Child this morning Ismet stated his intention to announce through the American press that the policy of Turkey was against forced evacuation. He said that Consul Imbrie at Angora could correct the distortion of facts which prevails in foreign countries.

2. We are seeking public blanket statement that American educational and religious institutions will be given the same protection as would now be accorded to a Mohammedan educational or religious institution in America. After previous conversation with Child, Ismet gave to the American press a statement which will probably be noticed by the Department.

3. With respect to capitulations, conversations are now taking place.

AM[ERICAN] MISSION

767.68116/227 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 1, 1922—noon.*

[Received 10:25 p.m.]

47. The trend as we see it is that no one will controvert the general principle of freedom of the Straits in peacetime for ships of commerce. We have already received instructions not to claim freedom of passage during war.[27] There will arise the question of passage by warships in peacetime and the administration of any zone which may be neutralized or demilitarized. We will not volunteer any comment on the first question but we may be asked for our views. We wish instructions as to the attitude of our Government, with especial consideration of the bearing upon waterways such as the Panama Canal of any precedents that it may be attempted to establish here. What attitude shall we take with respect to a neutralized or demilitarized zone regarding: (1) pledges of support for the enforcement of such

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[27] See telegram no. 345, Oct. 27, to the Ambassador in France, p. 886.

neutralization or demilitarization; (2) membership on any international board set up for the control of such zone? Doubtless the Department is aware that there will be a tendency to inquire as to the willingness of the American Government to assume such obligations.

AM[ERICAN] MISSION

767.68119 F&E 3/2 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 1, 1922—11 p.m.*
[Received December 2—1:10 p.m.]

49. Third meeting of third subcommittee on customs and shipping today. . . . American representative made following statement:

"The representatives of the United States desire to call attention to the fact that in view of its commercial and shipping interests in Turkey the question of establishing a new regime between the Allied Powers and the Government of the Grand National Assembly covering customs duties and regulations governing shipping is a matter of legitimate national interest to their Government.

The United States neither seeks nor desires special rights or privileges for its commerce or shipping but expects the same treatment in these respects as may be accorded to the most favored nation."

. . . . . .

AM[ERICAN] MISSION

767.68119/234 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 3, 1922—3 p.m.*
[Received 8:30 p.m.]

55. Following statement given to the press yesterday:

"The attention of the American representatives has been drawn to statements in the press leading readers to the belief that the American delegation has suggested postponement, adjournment, or change in program of the Conference of Lausanne. There is not the slightest foundation for this belief. The American representatives in common with all those who desire peace and general welfare entertain the most sincere hope for the complete success of the negotiations and believe that the forces which impel the nations seeking adjustments in the Near East are growing forces. Any views not directly authorized by the American representatives may be considered as the views which others desire the American representatives to hold rather than the views which the American representatives themselves accept. When the occasion is presented the Amer-

ican delegation will not hesitate to expose the original source of such misrepresentation."]

AM[ERICAN] MISSION

767.68119/227 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 3, 1922—12 midnight.*

29. Mission's no. 47 of December 1, noon. The following is for your guidance with respect to freedom of the Straits.

1. It should be stipulated that commercial ships shall be allowed to pass in time of peace and neutral commercial ships in time of war.

2. The right of passage of warships in time of peace should be secured although the passage of such ships might be restricted as to character and number if thought necessary. Confidentially, this is important in order that the Embassy, consulates, and citizens may be properly protected.

3. If possible the right of passage in time of war should be obtained for neutral warships.

4. It should be agreed that all fortifications be removed and none built in the future. There is no proper comparison with the Panama Canal in this matter. We have the right to fortify the Panama Canal as an artificial waterway which requires protection as such.

5. President Harding authorizes you to make statement at your discretion, as occasion may demand, to the following effect with respect to American membership on an international board of control for demilitarized or neutralized zones or for participation in the enforcement of such a status:

The American representatives do not wish to make any agreement unless it is very likely to be fulfilled. In view of the traditional American policy there can be no assurance that an undertaking for such membership or participation with the resulting involvement of the country would be given the necessary approval by the United States.

For your confidential guidance. Probably the Senate would not give its consent to a treaty with such a commitment. You should not place the United States in a position of asking for an international board of control in which the American Government would not be able to participate. The Department does not object to such control by others if there are no features involving discrimination against American transit and commercial rights. Since we cannot

be represented on a board of control we must be content with proper treaty assurances upon the first four points outlined above.

See Hay-Pauncefote Treaty text in Malloy: *Treaties, Conventions*, etc.,[28] for rules governing the Panama Canal. Also see the President's proclamation of May 23, 1917.[29]

HUGHES

767.68119T&M/13 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 6, 1922—2 p.m.*

[Received 4:02 p.m.]

64. At the tenth meeting of Lord Curzon's first commission on territorial and military questions today Child made the following statement during the debate on the Straits:

"I have listened with interest to the points of view of the various delegations on the subject of the Straits and trust that a statement of the views of the American representative will not be unwelcome.

Our position is based upon that policy of our Government which stands for complete and constant freedom without special privilege for our commerce and for the commerce of other nations.

The application of this policy to the question of the Straits is not difficult. We desire for the good of our own interests as well as for the good of all, including those peoples and nations which border on the Black Sea, that nothing shall be done which will take from any of them, Bulgaria or Ukraine or Turkey, Roumania or Georgia, the guarantee that they shall be accessible to the commerce of the world. Accessibility to that commerce is their right. It is equally the right of the commerce of the world to reach the peoples of this region.

I do not understand that any delegation here would openly deny that right for times of peace. This is not sufficient. It is in keeping with the progress of world administration and enlightened international purposes that the commerce of neutral nations shall not be interrupted during a state of war.

The freedom of the Straits is a term too limited to cover the field of this discussion. This discussion involves freedom of all those nations which border on the Black Sea and of all those nations outside the Straits who desire to reach them on their friendly errands.

We cannot accept the position stated by anyone who has spoken for the position of the nations on the Black Sea; we have heard no one speak with the assent of all. We cannot accept the position that the future of [commerce] in the Black Sea is the exclusive affair of the states bordering upon it. We assert that it is the concern of all the nations of the earth. It is untenable that any one nation by the virtue of geographical position should hold the power of depriving every other nation of these rights. This would be not only against

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[28] Vol. I, p. 782.

[29] *Foreign Relations*, 1917, supp. 2, vol. II, p. 1265.

the interests of our national policy; it would be against the interest of every nation on the Black Sea; it would be against the whole historical development of the freedom of the Black Sea. The unlimited control of the Straits and the Black Sea by any one nation is against the policy of the world.

I do not understand that any nation here will deny these fundamental principles of the freedom of the Black Sea. I do not understand that Turkey denies them. I do not even understand that any nation having an eye for extension of territory or seeking to control the policy of Turkey will be heard here to deny them. I assume that these fundamental principles will be established by this conference. No other result would satisfy the views of my Government. Without presuming to speak specifically for others I assume that no other result would satisfy either the nations inside or outside the Straits.

It is our view that the freedom of the Black Sea is to be gained only by disarmament. More than this it is our belief that even armament designed to keep the Straits open is in fact a danger to the freedom of the Black Sea.

If any nation or group of nations representing the interests of all nations accepts the trusteeship of the freedom of the Black Sea, this trusteeship may be carried out we believe with greater guarantee of good faith and constancy if reliance is placed upon agreements rather than upon force. It is possible for me to overlook the proposal made by one delegation here that by such agreements all warships should be excluded from the Black Sea. I would find it equally reasonable to exclude warships from every international body of water. No nation has gone further than the United States in policies of naval disarmament but no nation would be more ready to uphold the good sense of maintaining sufficient naval force to assure as police [*policing?*] of the free seas, to protect its citizens and their ships wherever they might be, to suppress piracy and other menaces and to act at times for the public good and to give relief to suffering just as ships of war have recently acted in the Near East. Ships of war are not necessarily agents of destruction; on the contrary they may be agents of preservation and serve good and peaceful ends in the prevention of disorder and the maintenance of peace. We I believe in common with every commercial nation wish access to every free body of water in the world and we will not be satisfied if our ships of war may not pursue their peaceful errands wherever our citizens and our ships may go."]

AMERICAN MISSION

767.68119T&M/36 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 6, 1922—9 p.m.*
[Received December 7—1:57 a.m.]

67. Our statement on Straits today was agreed upon by all of us after we had had separate conferences last night with Curzon and

Ismet, both of whom indicated that there was some danger that the Turks would go over to the Soviet proposal that the Straits be closed to all warships and that Turkey be allowed to fortify the Straits. Of course this would leave us without any guarantee of the freedom of the Straits for commerce and would leave a future opportunity for Russia to seize from Turkey the control of the Straits. It seemed an opportune time to state the position of the American Government as given in our instructions so that Turkey would be faced by our attitude as well as that of the Allies before taking a definite stand. We are of the opinion that the Turkish delegates think that cooperation with the Soviets has gone far enough and that they have an increasing fear that Russia may prove a menace to Turkey. We intend to stand by our statement and not to be drawn into debate concerning it.

AM[ERICAN] MISSION

767.68119T&M/13 : Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *December 7, 1922—5 p.m.*

31. Your 64, December 6, 2 p.m.

I am much gratified at the manner in which you have presented this Government's views in regard to the question of the freedom of the Straits.

HUGHES

767.68119 T&M 2/3 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 7, 1922—8 p.m.*

[Received 10:29 p.m.]

71. Fourth meeting of subcommission on prisoners of war and exchange of populations held December 7 at 4 p.m.

Tevfik Bey adduced figures to show that excluding Western Thrace there were in Greece 100,000 more Turks than Greeks in Turkey. The destruction of 27 towns, the 1,418 villages in Anatolia would render difficult the housing of 400,000 newcomers. For this reason he maintained the exchange should not begin before April but should include the Greeks of Constantinople who constituted a focus of unrest and international complications. This he declared was his last word.

Caclamanos denied Tevfik's figures and facts, made an appeal to the humanitarian feelings of the Turks, and stated it as his last word that Greece could not consent to the expulsion of the Constantinople Greeks.

In reply to chairman's request for American view the following statement of American delegation was read by Grew:

"The American delegation is not in accord with proposals for new compulsory movements of populations unless it is clearly shown that good purposes will be served as might be the case in the exchange of prisoners or of populations where the exchange is necessary to serve humanitarian ends. Without discrimination between the parties to the negotiation for exchange, the American delegation is unable to approve the movement from Constantinople of the Greek population of that city particularly under conditions which will send an urban people used to artisanship and commerce to a rural district. We will not hesitate to express in pursuance of our legitimate humanitarian interest our protest at any such dislodgment of human beings."

Montagna then made a conciliatory but strong speech calling upon the Turks to reconsider a policy which would entail more harm than good and incur for them the reprobation of the world. The English and French representatives concurred. The Turks, apparently impressed, requested a delay of three days in which to prepare their reply.

AM[ERICAN] MISSION

767.68119 T&M/12 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Extract—Paraphrase]

WASHINGTON, *December 8, 1922—5 p.m.*

34. . . .

. . . . . .

Upon further consideration the Department has been impressed with the desirability of having the passage of both commercial and war vessels assured by proper treaty provisions without an international board of control. This is irrespective of the special reason for objection to our making such a commitment (see our 29, December 3, 12 p.m.).

An international board of this nature would provide an opportunity for busybodies and be a constant source of irritation. It would also be easier to secure the desired assurances for freedom of passage of the Straits if no demand were made for a board of control. It would accord with prevailing sentiment to allow such freedom of passage and to assure it by treaty would not give any proper basis for objection as infringing upon sovereignty. With the restoration of peace, with the ordinary opportunities for diplomatic action, and with the unity of sentiment which any evasion

of treaty obligations would arouse, the Department believes that a treaty assurance would be ample protection because breach of such a guarantee would be so serious a matter and so easily detected.

I suggested these considerations to the British Ambassador in a conversation yesterday. I understand that the Ambassador is reporting to his Government. I explained, however, that our position at Lausanne would be stated by you. If possible, the avoidance of a controversy regarding an international control board is much to be desired. It is hoped that the Allies will be satisfied with treaty assurances and will not create a situation leading to our abstention from participation on a board of control claimed by others to be necessary.

It is believed that better results can be obtained at Lausanne by following the course suggested above than by insisting upon the acceptance of an unnecessarily difficult point.

HUGHES

767.68119/269 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 8, 1922—8 p.m.*
[Received December 9—1:11 a.m.]

73. The heads of the British, French, and Turkish delegations have in private expressed their gratitude for Child's statement concerning the principle upon which the United States based its view of the problem of the Straits. In open conference this afternoon the Japanese stated that they adhered to it. At the end of today's session it appears that the Soviet influence for closing the Black Sea to all war vessels and fortifying the Straits has been almost lost upon the Turks. The spirit of the latter seems conciliatory. The general principles, which have been accepted tentatively, are to be worked out with the Turkish experts. The drift is now all toward strict limitation of both military and naval armaments in the Black Sea, water passages, the Sea of Marmora, and the islands in the vicinity of the Straits. In our opinion the stability of peace in the Near East will be greatly aided by this arrangement. It does not appear probable just now that we will be asked to enter into any entanglements at all on this subject. In order to secure ratifications and the future of naval limitation program we consider it very important that the Soviet delegates should be induced to enter into and sign a separate protocol on the Straits and to give pledges not to maintain large naval forces in the Black Sea. If not otherwise

instructed, we will receive the Soviet delegates who may seek a conference with us and discreetly use our good offices, without making commitments.

AM[ERICAN] MISSION

767.68119/269 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 9, 1922—6 p.m.*

38. Mission's 73 of December 8, 8 p.m. If you felt that it might serve an important purpose the Department would not object to your receiving the Soviet delegates informally and unofficially. You should keep in mind that it is desirable to minimize the opportunity for them to use the meeting to make political capital. Report the proposed plan for separate agreement regarding the Straits as soon as possible and whether or not it is contemplated to give thereby *de jure* recognition to the Moscow regime.

HUGHES

767.68119 F&E 3/5 : Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *December 9, 1922—9 p.m.*

41. Your 45, December 1, 10 a.m. and 60, December 5, 10 a.m.[30] Following comments on the proposals for a change in the Turkish customs tariff regime [31] are sent for your guidance:

(1) Reservation by the Turks of freedom to fix tariff during two-year interval pending conclusion of commercial treaties might be made the basis for obstructive tactics and discrimination during this period. The Department would naturally take the position that pending the conclusion of such an agreement with the United States the treaties and agreements now in force and customs privileges granted by such treaties and agreements or consecrated by usage would remain in force.

Recently this Government has consistently opposed tariffs levied in Turkey upon any basis other than 11 percent ad valorem established under treaties and agreements. Many of the specific tariffs established by Kemalists are understood to be far in excess of that rate. Should Turks revise their tariffs so that none except a few items which might be agreed upon after careful consideration, would

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[30] Neither printed.

[31] For tariff proposals presented by the French delegation, see *Conférence de Lausanne*, etc., première série, tome III, p. 233. For Turkish counterproposals, see *ibid.*, p. 241.

exceed 15% or even 20% ad valorem, such tariffs, if accepted by other Powers, might not be opposed by this Government, pending conclusion within two years or possibly longer period of separate treaty on basis of economic autonomy for Turks under certain guarantees and most favored nation treatment for Americans. Discrimination against American products during period mentioned or adoption by Turks of obstructive tactics in treaty negotiations would probably be followed by insistence of this Government on pre-war tariffs.

(2) There is no objection in principle to the Turkish contention that commercial treaty between Turkey and Syria should not be considered as a basis for most favored nation treatment (this Government takes a similar view with regard to commercial treaties with Cuba), however, some provision would be desirable to prevent transshipment of goods from foreign countries through Syria in order to take advantage of particular arrangements with that country or similar arrangements which may possibly be made in future by Turkey with other States which in 1914 were a part of the Turkish Empire.

(3) The prohibitions noted under your point four [82] would seem to permit of the inclusion of almost any type of article. It would be preferable to secure a limitation of such prohibition to more specific articles, such as foodstuffs, gold, opium, narcotics, et cetera.

(4) No objection to prohibition regarding importation of alcoholic products, and in general no objection to prohibition on importation unless tendency to discriminate against American products.

(5) Attention is called to difficulty already experienced in Constantinople with regard to consumption taxes which while in effect internal revenue measures in practice operate as additional customs dues. Turkey should guarantee national and most-favored-nation treatment with respect to all internal dues and taxes.

HUGHES

767.68119/281 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 11, 1922—2 a.m.*

[Received 12:50 p.m.]

84. Your no. 38, December 9, 6 p.m. Barrère and Curzon have told Child that France and Great Britain do not contemplate the

[82] "4. During two-year period no prohibition except: (*a*) to preserve indispensable resources of alimentary nature and to assure the economic activity of the country; (*b*) in case economic regime of country endangered; (*c*) to assure security of the state; (*d*) to preserve persons, animals, plants against contagious diseases and epidemics; (*e*) opium and narcotics; (*f*) exportation of gold."

recognition of the Moscow regime. Barrère and Child have conferred on the difficulty of allowing Russia to sign any treaty without thereby creating the basis for a claim of *de jure* recognition. Barrère suggests that this may be avoided by making a separate instrument for understanding with Russia. The suggestion is being studied but the exact nature of the instrument has not been planned as yet. There are strong indications that Chicherin and Rakovsky disagree. Chicherin wishes a result acceptable to the Soviets while Rakovsky would rather invite a breach and leave Lausanne without entering into an agreement. This afternoon we have information from Turkish sources tending to assure us that there is a widening break between the Turks and Russians, and indicating that the French distrust an increasing accord between the Turks and British. Unless we think it will serve definite purposes we will not receive Soviet delegates.

AM[ERICAN] MISSION

767.68119 T&M/40 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract—Paraphrase]

LAUSANNE, *December 11, 1922—3 a.m.*

[Received 3:30 p.m.]

85. Your no. 34 of December 8, 5 p.m. We have been making discreet suggestions that there be no board of control and that reliance be placed on treaty rights. . . . Curzon has voluntarily assured Ambassador Child that as far as he is able he will avert any unwelcome invitations being extended to the United States. He has learned that any such invitation would only result in creating an unpleasant situation which would do more damage to the ultimate interests of Europe than it would to us.

AM[ERICAN] MISSION

767.68119T&M/16 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 13, 1922—9 a.m.*

[Received 4:35 p.m.]

96. Our 95, December 12, 11 p.m.[33] Child's statement[34] follows:

"The American representatives intend to hold aloof from affairs not our own, but humanitarian interest is as much our right and our duty as it is the right and duty of every nation.

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[33] Not printed.

[34] In 13th meeting of the first commission on territorial and military questions, Dec. 12, during discussion of the problem of the minorities.

We claim no particular right to be heard upon the subjects of refugees, the protection of populations, and the finding of homes for those who are dislodged; instead of doing so we assert that other nations and particularly those represented at this table have an equal interest and an equal duty. Because it was upon her territory that the misfortune of war fell and from her territory that the great number of refugees come, Turkey may have an interest in these humanitarian questions greater than that of any of us.

It is unthinkable that the aspirations of Turkey for independence, for progress should not rely in part upon a generous policy of contribution to the safety and relief from suffering of mankind. The safety and relief from suffering of mankind is one of the principal concerns of governments.

The comfort and safety and settling of hundreds of thousands of human beings, most of them nonbelligerents, many of them women and children, many dislodged forever from their homes by the disturbances in the Near East, is a matter which has for the people of the United States a vital interest.

As an earnest of that interest, our nationals have spent freely in the quarter of the world with which this conference is dealing, in medical attention, in the service of our naval forces, in feeding starving people and in other forms of relief, large sums of money. We have put nearly $75,000,000 into this work through one committee alone. The people of my country ask no return for this expenditure unless it be assurance that this conference to the full extent of its power will find means to wipe away at once the causes for this waste of human life and human suffering.

It is useless for me to restate the problem. It is useless to give more statistics. The facts are recognized by everyone. They rebuke the world. They challenge the self-respect of civilization. They are so stupendous that pity for individuals is lost in pity for masses. The work to be done may include any wise exchange of nationals, so that as one of the results males may go back to their families and support them on their native soils. It includes the safety of other racial elements fleeing under the stress of fear and the finding of refuge for them as the wisdom and the conscience of the nations represented here may direct. It includes the finding of homes for homeless and an international generosity in furnishing temporary feeding and transportation and prevention of the sweeping fires of pestilence which might menace the world. It includes the requirement of guarantees of these nations which now find those homeless hordes upon their soils that they shall have protection. It includes the attempt to prevent further migrations and it is not of vast consequence to my mind whether migrations are started by order issued by authorities or by fear of violence.

I do not say that the Allied Powers have avoided responsibility for the fulfillment of these ends. On the contrary I point out the following few instances of such assurances which have been cited by those who seek the establishment of a refuge for Armenians: The text of the Treaty of Sèvres; the statement of the Secretary of State for Foreign Affairs of Great Britain made in the House of Commons on March 11th, 1920; the statement of the Prime Minister in the House of Commons on the 29th of April 1920; the letter of M.

Poincaré, President of the French Republic, to the Armenian Archbishop of Cilicia February 16th, 1919; the resolutions of the Supreme Allied Council March 8th, 1921; the resolutions of the Allied Ministers of Foreign Affairs March 26th, 1922; the resolutions of the League of Nations on September 22nd, 1922. I do not say that the Turkish delegation and the nationals will fail to act in accordance with that tolerance and justice and concession which the United States and the whole world expects and may righteously require.

But I urge on behalf of the people of the United States that this conference will never leave Lausanne without providing some means for permanent joint labors to find refuge for unprotected hordes and to create if possible safe territorial refuges for special populations if it be determined that they require resources of other nationalities, religions or races. Above all this conference should secure by agreement and by measures of humanitarian administration strong guarantees that safety shall attend the continuance in their present situation of populations which now are vexed by fears. We believe that new precedents which tend to establish the right of nations to expel large bodies of their citizens to become burdens upon other nations must be carefully considered before countenance is given them lest a new and unwholesome principle find foothold to vex international law and justice.

The representatives of the United States believe that the ends to be sought are prevention rather than mere relief and guarantees of safety of minorities rather than mere succor to their misery, and permanence of joint action rather than mere spasmodic separate activity. In this purpose the people of my country, though far removed by distance, have a profound interest, and will continue to stand ready with their contributions".

AM[ERICAN] MISSION

767.68119T&M/16 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 14, 1922—7 p.m.*

46. The statement by Grew quoted in Mission's 71 of December 7, 8 p.m., and that by Child quoted in Mission's 96 of December 13, 9 a.m., are approved by the Department. There is no question in which the people of the United States have more immediate concern than that of minorities. The Department is glad to have you use all the influence you have to bring about a satisfactory settlement of the problem.

In reply to a note from the British Ambassador on this subject,[35] I wrote him on December 13[36] that you were instructed to urge adequate guarantees for the protection of minorities, and I added

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[35] *Foreign Relations*, 1922, vol. II, p. 963.
[36] *Ibid.*, p. 965.

that I felt the adoption of a comprehensive relief plan, if possible, to meet the serious conditions that have arisen would be most helpful.

HUGHES

767.68119 F&M 1/–: Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *December 15, 1922—3 p.m.*

48. Your 72, December 7th, 9 p.m.[37]

For your guidance. The application of the laws of one country is at best extremely difficult for the courts of another country, and it does not seem likely that the Turkish civil courts as at present constituted would be competent to apply the national laws of foreigners in Turkey.

This whole question of jurisdiction and of the modification of the judicial capitulations is so important and so complex as to lead the Department to believe that unless it is satisfactorily settled at Lausanne within a reasonable time it might well be referred to a special commission which could devote to it mature consideration, pending result of which treaty rights would of course be respected. In this connection it should be remembered that as we were not at war with Turkey, whatever claim Turkey may advance as to nonvalidity of her treaties with Allies this would not apply to United States. In the event a Commission were decided upon it might be desirable to work out at Lausanne certain general limits or guiding principles on which possibly both the Powers and Turkey might be able to reach an agreement. In this connection your attention is called to the Egyptian precedent (see *Foreign Relations* 1873 [38] and 1874 [39]). As you are probably aware, under this arrangement questions concerning the personal status of foreigners and, with a few exceptions, all criminal cases against foreigners are under consular jurisdiction, while most other matters involving foreigners are under Mixed Court jurisdiction. It is important to bear in mind that Turkey will not be the only country affected by the settlement of the capitulations question, but indirectly and none the less acutely China, Egypt, Persia and other countries. While Department hopes that in time these countries may be able to reform their judicial system so that special guarantees for foreigners may no longer be necessary, it feels that the proper test of the right to

[37] Not printed.
[38] Pt. II, pp. 1100 ff.
[39] pp. 1126 ff.

greater judicial independence is the actual achievement of real judicial reform.

Department will send you a further telegram in regard to points noted in your 77 December 9, 9 p.m., and 88 December 11, 3 p.m. and later telegrams.[40] It is presumed that capitulatory powers will insist upon the retention of rights substantially as outlined. This Government while not opposed in principle to considering certain modifications of the pre-war régime of judicial capitulations, could hardly be expected to give up rights under the Treaty of 1830 [41] and the Real Estate Protocol of 1874 [42] together with privileges enjoyed under these agreements by custom and usage in the absence of satisfactory assurances for the future under a modified régime. These rights being enjoyed under treaties, it is only through proper treaty provisions that they could be modified.

The Department desires your comments on this telegram and further indications as to the form of the proposed arrangement between the Allies and the Turks in regard to capitulatory rights. Will such an arrangement form a part of Treaty of Peace or be drawn up as a separate instrument which all capitulatory powers may be invited to sign?

HUGHES

767.68119 T&M 2/11 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 16, 1922—10 p.m.*
[Received December 16—8:25 p.m.]

118. Statement by American representative at the subcommission on the exchange of populations December 16th.

["]The American delegation desires to inform the subcommission that the proposal to abolish or remove the institution of the Patriarchate of Constantinople has been met by vigorous disapproval and protest among large bodies of American citizens. The American delegation wishes to emphasize the view of those whose protests we have received that the Patriarchate was confirmed by the wisdom not of foreigners in Turkey but by Turkey herself and intolerable injustice will be done if there is insistence upon the abolition of the institution. We have adequate evidence of this view in telegram from signatories representing large bodies of our population.["]

Report of meeting will follow.[43]

AM[ERICAN] MISSION

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[40] None printed; the telegrams referred to outlined discussions in the first subcommission of the commission on the regime of foreigners. See *Conférence de Lausanne*, etc., première série, tome II, pp. 58 ff.
[41] Malloy, *Treaties*, 1776–1909, vol. II, p. 1318.
[42] *Ibid.*, p. 1344.
[43] Not printed.

767.68119 F&M 1/7 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 17, 1922—8 p.m.*
[Received December 18—2:33 a.m.[44]]

120. Referring to Mission's telegrams relating to legal status of foreigners and to customs regulations in Turkey, and also to Department's telegrams of December 9, 9 p.m., and December 15, 3 p.m.

The Turks are especially resolute in their demand that justice and administration in Turkey shall be freed from foreign control of any sort. Their contention is not that the capitulations were abrogated by a state of war, but that abrogation by unilateral action had become necessary because the old system was an intolerable and unfair burden upon Turkey. The Turks have persistently refused to permit the slightest diminution of their national sovereignty. Their sentiments on this subject are so intense that even the ordinary treaty limitations on sovereignty which are commonly accepted by other countries long used to the full exercise of national sovereignty, are unacceptable to the Turks. In fact they seem disposed to reverse the old relationship between Turks and privileged foreigners by putting foreigners in a less favored position than Turkish nationals. They have stated repeatedly that on the basis of reciprocity and of the principles of international law they will negotiate the usual consular and commercial agreements with any country.

By their various proposals and statements the Allied Powers have in effect publicly admitted that the capitulatory regime has ceased to exist and that a new arrangement must be substituted. But they have not yet announced that the old treaty rights are definitely and finally abandoned. They have conceded a good deal to Turkey in the matter of customs, and for the sake of agreement will concede considerably more. They have made even more liberal concessions regarding rights of access and establishment, as also regarding immunities in taxation and other fiscal privileges under the capitulations, and they propose that their nationals shall receive only equal treatment with Turkish nationals, to which, however, the Turks are not always ready to consent. As regards the judicial regime for foreigners in Turkey, which is the most serious issue, the Allies have only asked that foreign judges be appointed by the Turkish Government to sit in courts of appeal and cassation and in courts of first instance at Smyrna, Broussa, and Constantinople. These judges are

[44] Telegram in two sections.

to sit with Turkish judges to try cases affecting Allied nationals, particularly criminal cases, and they are to assist in framing a system of jurisprudence on modern principles. They are to be paid by the Turkish Government and to be its functionaries. Although nothing has been as yet definitely decided, it seems probable that Allied nationals will not in general receive more favorable treatment than is enjoyed by German nationals under the German–Turkish treaty of 1916. So far the Allies do not seem to be trying to obtain a position of special privilege, or to be seeking favors in exchange for concessions in the matter of the capitulations. They seem to perceive that only by cooperation of all capitulatory powers in negotiating with Turkey can satisfactory results be obtained.

Accordingly the sessions of the subcommittee deliberating on the capitulations are attended by representatives of interested neutral states, who have also recognized impossibility of restoring the capitulations and necessity of devising a new regime by separate agreements for which the present treaty between Turkey and the Allies should serve as a model. Practical solutions, therefore, are being preferred to legal forms.

It will be evident to the Department that the limits of negotiation as contemplated in its 48 of December 15 have been already far surpassed. The Turks are rejecting every proposal which does not recognize their complete and unqualified sovereignty and exempt them from any foreign constraint whatever upon the judicial and administrative functions of their Government. It has been admitted in effect by the allied and neutral European powers that the old position of privilege for foreigners in Turkey is now irretrievably lost, and during the final bargaining the powers are attempting to hold fast to any special rights which may be retained for their interests in Turkey.

The facts of the situation, therefore, as distinguished from the theory, will soon compel us either to take up a conciliatory policy toward the Turks and meet them halfway as other governments are doing, or else to oppose their claims in every way we can. If we adopt the latter course we shall come under the displeasure of the Government at Angora, and since the whole population in Turkey earnestly supports the claims of the Government, we may be obliged after all to be content with just what the other capitulatory powers are now agreeing to, and meanwhile our interests in Turkey will reap no benefit from the delay and may incur actual loss.

On the other hand, if we show ourselves ready to recognize the altered status of the Turkish nation, we would stimulate the Turkish sentiment of friendliness toward the United States. Relying upon this sentiment and upon the desire of the Turkish leaders that Ameri-

can capital should make large investments in Turkey and their readiness to offer inducements for investment, we should be able to obtain much better conditions than if we remain persistently unsympathetic toward Turkish aspirations and in the end are compelled to recognize them. Besides reaping substantial benefits for ourselves, we should also increase our influence among the governing classes on behalf of minorities in Turkey if we take the initiative in declaring that we are in sympathy with Turkish views and are prepared to recognize Turkey's unconditional sovereignty and the abolition of the capitulations. We might also assist in inducing the Turks to take a more reasonable view of the proposal, which they will not now entertain, for gradual readjustments during a transitional regime to follow the abolition of the capitulations. Should these considerations have weight with the Department we feel that we might contribute toward a settlement satisfactory to everyone by an active participation in the negotiations on these questions.

AM[ERICAN] MISSION

867.602/28 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 18, 1922—noon.*

[Received 12:34 p.m.]

121. Ismet informed Child last night during conversation which had been prompted by representations received from some other source that:

No economic concessions in Turkey were being given to foreigners in return for political concessions at Lausanne. The principle of the Open Door meets with entire approval from the Turkish Government.

Bidders offering the best terms would be awarded contracts for carrying out public development or construction projects in Turkey, and no consideration would be given to nationality of the bidder or to other matters not related to the welfare of the enterprise. Ismet observed that if, for example, Americans or Italians or others should present their bids before the definite award of a contract for the building of a port at Mersina, the concern which offered the best terms would be granted the contract, although for months the French had been negotiating for a concession and their proposals were under discussion at the moment in Angora.

Ismet made explicit declaration that the Turkish Government was not trading its petroleum properties or interests to any foreign

power in return for equivalent concessions to Turkey in drafting the treaty at Lausanne.

AM[ERICAN] MISSION

867.0145/11 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 18, 1922—6 p.m.*
[Received December 19—1:30 a.m.]

122. Prior to today's discussion of the new Allied draft concerning the Straits, which includes a plan for international control board, we presented to the president of the conference for the conference records, the following statement:[45]

"The representatives of the United States on behalf of their Government take the position that the full freedom of the Straits to all nations of the world without discrimination would be served best by reliance on treaty rights and agreements rather than upon a joint or international commission of the Straits. This view has been made known already to the delegations which have desired to know our attitude."

This carries out our instructions and also confirms attitude which we have expressed in conversation with Curzon and others. Should the project for an international control board be adopted and we not desire to participate in it, we may well base our refusal on disagreement with the principle instead of upon a reluctance to share in international responsibility.

AM[ERICAN] MISSION

767.68119 F&M 1/8 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 19, 1922—5 p.m.*
[Received December 19—4:15 p.m.]

125. Further reference to last sentence your no. 48, December 15, 3 p.m. The peace treaty between Turkey and the Allies will probably include the various changes in the old system of capitulations. It is likely that these changes will serve as a basis for the separate treaties which Turkey will later enter into with the other American and European countries. At present it does not appear that in this connection we will be asked to sign any separate instrument.

AM[ERICAN] MISSION

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[45] Quoted statement not paraphrased.

867.0145/14 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 20, 1922—2 p.m.*
[Received December 20—12:42 p.m.]

134. In case opportunity arises because of deadlock or otherwise and Department by its instructions wishes to suggest solution of Straits question, we would find many reasons in support of following general plan:

1. Turkey declares herself trustee for all the world of water passage, and neutral zone of land and water to be defined as to extent and demilitarization for following purposes:

2. (*a*) For free passage ships of commerce in peace and war; (*b*) for free passage ships of war out and in, in limited number to be defined; (*c*) for the control of port and passage; regulations backing (*a*), (*b*) and (*c*) to be defined.

3. Nations which shall enjoy privileges under this trusteeship whether using Straits in or out must first pledge themselves to Turkey and through Turkey as trustee to all other existing beneficiaries of the trust not to violate neutrality of the land and naval neutral zones as defined and must assent to principle that violation of either would constitute not only an act of war against Turkish sovereignty but would be interpreted as an act of war against any beneficiary nation which in its discretion desired to so interpret it. Such a plan would exclude international boards, and involvement, and would put pressure on Russia to join general accord and appears to meet the fundamental Turkish attitude. It may be considered as best method of crystallizing moral force of world as opposed to armed force and fake internationalization.

AM[ERICAN] MISSION

767.68119 T&M/25 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 21, 1922—5 p.m.*

59. Mission's no. 137 of December 20, 7 p.m.[46] Telegram under reference indicates that possibly with the exception of the political guarantee there is now general agreement on the proposal for the freedom of the Straits. Department desires telegraphic report giving further information as to why Turks object to the political guarantee.

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[46] Not printed.

Mission's no. 134 of December 20, 2 p.m. Sentiment in this country would not approve guaranteeing the freedom of the Straits by means of the trusteeship of Turkey and the Department does not wish to take the lead in offering such a proposal. It would be better to place the emphasis upon the binding force of the treaty obligations to be assumed by Turkey toward the other countries of the world to preserve this freedom.

Since the attitude of this Government toward a board of control has been stated by you, you need not press this matter further in case the Allies and Turkey reach a substantial agreement for such a board. This procedure is in keeping with our policy not to commit any act which would hinder a settlement once the freedom of the Straits is satisfactorily assured.

HUGHES

767.68119 T&M 2/12 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 21, 1922—6 p.m.*

60. Mission's 118 and 119, December 16, 10 p.m. and December 17, 11 a.m.[47] Your statement concerning the Patriarchate came as somewhat of a surprise to the Department. It does not appear that the American Government should interfere in such a question as the location of the seat of the Patriarchate or that this question is one which is essential in the consideration of the problem of protecting minorities.

Dolbeare's telegram of December 19, 3 p.m.,[48] repeated to you, has been noted by the Department which believes that you will appreciate the force of the statement contained therein. Avoid as much as possible making comments, without reference to the Department, on matters not included in the outline of the interests of the American Government as set forth in your instructions.

Do not take this to indicate, however, that the Department expects any serious results from your statement or desires you to withdraw it or to limit it by further comment or explanation. The Department prefers that you should reply directly to Dolbeare's telegram. He is being informed to this effect and instructed to refrain from comment.

HUGHES

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[47] No. 119 not printed; in this telegram the Acting High Commissioner warned the Department against unqualified support of the Patriarchate, on the ground that it was as much a political as a religious institution.

[48] Not printed.

367.116/859 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 21, 1922—10 p.m.*
[Received December 22—1:07 a.m.]

141. In press release to American correspondents Ismet declares that in response to his request he has received a telegram from Angora stating that all American educational and religious institutions may open with security and protection. The Department may desire to know that all the above was in pursuance of representations which we had made.

AM[ERICAN] MISSION

767.68119 T&M/27 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract—Paraphrase]

LAUSANNE, *December 22, 1922—2 p.m.*
[Received December 24—7:09 a.m.]

146. Your 59, December 21, 5 p.m. . . .

Replying to the Department's inquiry as to why the Turks object to guarantees for Turkey, it is our opinion, based upon informal conversations, that their objection is to the plan to place the enforcement of the guarantees in the hands of the League of Nations. Such a guarantee the Turks consider feeble. Our understanding is that what the Turks want is to have the signatory powers make direct and positive guarantees of neutrality. The Allies and Turks are now discussing the whole subject of the Straits in private conferences. At present the atmosphere appears favorable for a settlement. We will try to keep informed regarding the situation.

AM[ERICAN] MISSION

767.68119 F&M 1/7 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 22, 1922—6 p.m.*

63. Referring to Mission's 120 of December 17. It is apparent to the Department that since the recent quickening of national sentiment in Turkey it is hardly expedient for this country to continue to exercise undiminished the rights to which it may lay claim under present treaties and under the capitulations. This view is supported by the fact that the Allied Powers have indicated their readiness to re-

linquish many of the judicial and economic privileges in Turkey to which they were formerly entitled. The Department is aware that this Government cannot expect to obtain more favorable terms than other powers, although in theory we may insist upon our capitulatory rights.

The Department is inclined to question, however, the prudence of the policy you have suggested of taking the initiative in declaring to the Turks that we are in sympathy with their views and are prepared to recognize Turkey's unconditional sovereignty and the abolition of the capitulations.

If the United States should take the lead in declaring for the abolition of the capitulations it would be assuming a very serious responsibility for the future. Moreover, the Department is not convinced that Turkish good will depends upon our thus taking the lead. Turkey is aware that the United States is not inclined to indulge in intrigue or to seek for itself any special privileges. Turkey recognizes the power of the United States, and is anxious to have the financial assistance of a disinterested country in Turkey's economic rehabilitation. Turkey also sets a high value upon American educational and philanthropic enterprises among her people. The Department is convinced that we will have as good a prospect of ultimately winning the trust and esteem of the Turks by a just but firm policy in this important question of the capitulations as by a policy which is too yielding.

It is not proposed, however, that we should insist rigorously upon our merely legal rights under present treaties. But the responsibility of taking the lead in abrogating the capitulations may be left to the powers apparently willing to assume it. The Department feels that in a future treaty with Turkey it may be necessary and proper to take into account Turkish nationalist aspirations, but that in doing so we should also make sure of an appropriate recognition of our rights in Turkey. And meanwhile we should not relinquish our present rights unless we have obtained satisfactory guarantees for the protection of American enterprises and American citizens in the exercise of fundamental rights which have not been invariably accorded in Mohammedan countries. You are directed, therefore, to proceed as follows:

1. Support the efforts of the Allied Powers to obtain complete judicial protection for foreigners in Turkey. The Department finds it difficult to pass upon the adequacy of the Allied proposals until it has received more precise information. Presumably the Allies regard these proposals as representing all that the Turks will be willing to concede. The Department wishes to examine the full text before deciding whether you should accept the proposals.

2. If the negotiations reach a deadlock you are authorized at your discretion to suggest that a commission, representing both Turkey and

the capitulatory powers, be set up to decide the question of the judicial regime of foreigners in Turkey. (See Department's 48 of December 15, second paragraph). You may offer for consideration also the present arrangement in Siam, which could be modified to meet the requirements of the Turkish situation. In Siam all cases in which Americans are involved are in the first instance tried before Siamese courts, but it is also permitted to transfer cases to the consular courts under certain contingencies.

3. Although the Allies seem inclined to surrender present safeguards against arbitrary acts by Turkish authorities, nevertheless it should not be overlooked that the rights of the United States rest upon existing treaties, that Turkey cannot lawfully ignore these rights, and that this Government is constitutionally prevented from recognizing a modification of the present arrangement except upon the conclusion of a new treaty. Moreover, it should not be overlooked that in giving up the safeguards enjoyed under the capitulations, the Allied Powers would be moved by a desire to bend the Turkish settlement to the advantage of their territorial and other interests in which we are not directly concerned; and that if the Turkish Government should reject the treaty the Allies could return to almost the same position which they held before they began to negotiate for a treaty. If, on the other hand, this Government should also intimate a readiness to renounce its rights under the capitulations, the Turks might construe the statement as an unconditional acceptance of the Turkish contentions, to the prejudice of our later negotiations with them.

4. We are under no obligation, in short, to pursue the policies of the Allies farther than we judge prudent in making concessions, although we should cooperate with them in obtaining from the Turks guarantees as effective as possible. The Department assumes that the Turks will not be disposed to deny most-favored-nation treatment to this country. If therefore they persist in their determination to concede nothing on the capitulations, it might be better to go no farther in our negotiations with them than to secure from them most-favored-nation treatment, and to put off negotiating a treaty until such time as they may be better persuaded of the advantage to themselves in granting to foreigners certain essential privileges while awaiting further reform in Turkey.

5. For the present arrangement in Siam, see British treaty with Siam, 1909,[49] as well as United States Treaty Series 655, protocol of October 12, 1921,[50] concerning jurisdiction.

HUGHES

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[49] *British and Foreign State Papers*, 1908–1909, vol. 102, p. 126.
[50] *Foreign Relations*, 1921, vol. II, p. 874.

767.68119 T&M 2/13 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 23, 1922—5 p.m.*
[Received December 24—12:30 p.m.]

148. The following is our telegram no. 21, December 23, 5 p.m. to Constantinople:

Your no. 38 of December 21, 1 p.m. We realize that it is difficult to obtain a correct understanding of proceedings here from Constantinople press reports. We are not aware that pressure has been brought on the Turkish delegation to retain the present Patriarch or the Patriarchate in its old political form. However, it is generally thought here that the right of a minority to religious liberty touches important precedents with respect to American interest in minority rights and full protection for American religious institutions in Turkey. Such religious liberty includes the right of the minority to its own ecclesiastical functionaries. The Turkish delegation clearly understood why we expressed the opinion of large groups of Americans on this subject and it now seems likely that the Turks will agree to continuing the Patriarchate as an exclusively religious institution and a change in the person holding the office.

AM[ERICAN] MISSION

867.4016/820 : Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *December 26, 1922—3 p.m.*

65. Near East Relief has communicated following telegram received from Peet, Barton, Montgomery:

"Several hundred thousand Armenian refugees orphans in Syria, Greece Constantinople on the road elsewhere have no abiding place and without some officially designated territory will become homeless wanderers dependent upon Christian benevolence. Allied demand Armenian protected area meeting great opposition. Decisive instructions from Washington to delegation apparently needed."

[Paraphrase.] What demands for a protected area for the Armenians have been submitted to the conference by the Allies? Of course the Department would wish to have you support any practicable proposal which might give promise of real assistance to the Armenians. The Department would like to be informed of any specific proposals for a territorial home for the Armenians which are believed to be practicable. [End paraphrase.]

HUGHES

767.68119/332 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 26, 1922—7 p.m.*
[Received December 27—1:40 a. m.]

154. It seems very evident that the Turks last Friday abandoned their attitude of conciliation and have adopted one of resistance and unwillingness to compromise. The cause of this is not yet apparent. Those in close touch with the Turks are well aware of the suddenness of this change. Curzon has told Child that he is speculating as to the reason for the change, suggesting as possibilities instructions from Angora, support from Russian sources, or some strong pressure. Curzon is clearly anxious as to the attitude of France. The French press has been criticizing Barrère for supporting Curzon too strongly. Barrère went to Paris to inform Poincaré that he would resign if this attack were not stopped. Curzon has made bitter complaints of attacks upon himself by the French press . . . Curzon is convinced that the French Foreign Office and the French press are abusing him for the creation of the plan put forward by the Allies for the Straits,[51] although he points out that the plan was that of Marshal Foch. Curzon indicates that in the conversations Friday and Saturday the French abandoned the plan for setting up an international board of control and supported a proposal for placing the demilitarized zone under the surveillance of the diplomatic missions in Turkey. Even this measure of control was rejected by the Turks. Curzon understood from Barrère that the Turks had said that they were advised by Admiral Bristol to reject surveillance of any kind. We at once obtained denials from Admiral Bristol and Ismet. This incident has not reassured Curzon regarding the influence which has caused the Turks to change their attitude. Evidence of this change has come to us directly. Yesterday Ismet called on Child. Evidently he was trying to prepare us for a line of action which he said he might be compelled to take. Up to this time he has agreed with the idea that by making a just peace at Lausanne, Turkey had the opportunity to establish her position in the family of nations. He said yesterday that Turkey could look to the East and North as well as West. He said that the Allies would have to meet the minimum terms put forth by Turkey and that it must be understood by us that he had done the best he could. He mentioned that Mosul must be given to Turkey.

[51] Plan not printed.

Curzon also is somewhat anxious regarding the new attitude of indulgence toward the Soviets which is noticeable at Paris and to some extent at Lausanne.

Considering these disturbed conditions it is our opinion that the less our delegation says or does for the present the less will American interests be drawn into any vortex.

AM[ERICAN] MISSION

767.68119 F&M/3 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 28, 1922—3 p.m.*

[Received 8:11 p.m.]

157. As was foreseen, Ismet's attitude on the capitulations was absolutely unyielding during this morning's session of the second commission.[52] The import of his statements was that the internal laws and administration of Turkey should regulate the status of foreigners. It seemed an inopportune moment to come forward with the suggestion for a commission, which by the Department's 63 of December 22 was left to our discretion. But when the four Allied Powers had entered very stiff protests against the position taken by the Turks, in spite of what the Allies had conceded on abolition of the capitulations, we then gave an exposition of the position of the United States with the object of putting on record our intention not to surrender certain rights and also with the hope that the Turkish delegation might be induced thereby to adopt more moderate views. Child's statement given below contains the substance of representations repeatedly made to Ismet during our interviews:[53]

"The United States has an independent position which is based on two important and serious considerations.

The first is the sanctity of obligations. The United States enjoys certain treaty rights which are obligations to Turkey. In 1914 these obligations on the part of Turkey existed towards many nations. The United States is one among these, whose rights under these obligations cannot be set aside by Turkey alone except by repudiation. We do not believe that Turkey desires to follow the unsuccessful example of the nations which base their independence upon the mere repudiation of international obligation.

The second consideration is the fundamental equity which foreigners such as the nationals of the United States who have invested their personal or material fortunes in Turkey may expect from the Turkish Government. The protection upon which they have counted cannot be withdrawn without the creation of obvious injustice. All

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[52] On the regime of foreigners.

[53] Statement not paraphrased.

the world, including I believe the Turkish people themselves, would look upon this injustice as an offense to those principles which create international faith and fidelity so necessary for the functioning of the social security of the world and the cooperation of economic forces.

The representatives of the United States understand that in respect to these rights created by treaty or by usage the position of the Turkish delegation has been founded upon a desire for complete freedom from any possible restriction of the sovereignty and independence of Turkey.

For the maintenance Turkish sovereignty we have sympathy. For its progress we have much hope. We have observed that we are not the only representatives of nations here who have been inclined to accord to Turkey the recognition of her legitimate aspiration to be free of unwarranted interference. We have not, however, [refrained,] and we cannot now refrain from stating our view that sovereignty not only creates a duty for zealous guardianship of rights, but, in its highest sense, creates also the duty for an equally zealous guardianship of its obligations. It is our view that sovereignty, in the sense of the prerogatives of a modern government, is as often expressed in terms of cooperating with the outside world, such for instance as is involved in the presence here of His Excellency Ismet Pasha to maintain peace as it is expressed in mere assertion of inviolability and sanctity. In the modern world a sovereignty which has its eyes only on its sanctity is a sovereignty of isolation. It is our belief that only those sovereignties are progressive which have the confidence and readiness to arbitrate, to cooperate and to contribute to practical ends.

One of these practical ends to which the sovereignty of Turkey would devote itself under natural developments would be the substitution of new treaties with their rights and obligations for old agreements which might not be considered to meet the need of the times or of [justice, or of] new conditions.

We can believe that in this attempt Turkey would find a fair and generous treatment from other nations, including our own, in exchange for a fair and generous treatment accorded by Turkey. But if her policy should be along other lines, it is difficult to foresee better results than the world has observed in recent cases of governments which have attempted to prosper on the policy of repudiation.

The position of Turkey towards the juridical status of foreigners and their property in Turkey, as we are now led to understand it, is that Turkey asserts that she possesses a juridical system—including not only laws but their application in her courts—which will satisfy other nations and their nationals. Unfortunately this satisfaction does not appear at this moment to be the fact. The fact appears to be that other nations and their nationals, no matter how ready they may be for means for cooperation with Turkey, are testifying that Turkey does not offer either the continuance of existing rights or substitution for them of a system which will safeguard foreign persons and property in Turkey. The security may exist [in] the mind of the Turkish Government but the vital necessity is that foreigners themselves must feel that it exists.

To the representatives of the United States it appears clearly that even if no question of obligation on the part of Turkey existed, as

indeed it does, foresight would cause Turkish sovereignty to express itself in a program dealing with the juridical status of foreigners in such a manner as would invite and not repel foreigners from that intercourse upon which the prosperity of nations is founded.

With a full appreciation of the legitimate aspirations of Turkey for an inviolable sovereignty, we point out that treaties which will give foreigners a status of security in Turkey can deprive Turkey of nothing, and indeed would be the very foundation for her economic future."

Before adjournment Ismet asked for time to give further thought to his final decision.

AM[ERICAN] MISSION

767.68119/332 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 28, 1922—6 p.m.*

67. Mission's no. 154 of December 26, 7 p.m. Your telegram under reference has greatly assisted the Department in understanding the situation resulting from the lack of harmony among the Allies and the uncompromising attitude of the Turkish delegation. The recommendation in your final sentence is approved.

Naturally we desire that the conference shall succeed and that peace be reestablished and we think you can continue to assist in this direction as you have previously. As has been indicated by the instructions sent you, this Government has a substantial interest in cooperating with the Allies to obtain a satisfactory settlement of such matters as freedom of the Straits, the protection of minorities, and capitulations. We realize that you have already clearly explained this to the Turkish delegation. They should understand that they can expect little sympathy in the United States if the conference fails because of their uncompromising attitude on these points.

Your tact in dealing with the difficult problems with which you have had to deal is appreciated by the Department which has complete confidence that in the present crisis you will be able to exert a helpful influence.

HUGHES

890g.6363/171a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 28, 1922—7 p.m.*

68. Your attention is invited to the correspondence concerning the Open Door policy with respect to a mandate for Mesopotamia and

to the instruction sent to our Embassy in Great Britain, no. 233 of November 4, 1921,[54] with which was enclosed a communication regarding the Turkish Petroleum Company to be presented to the British Government. You will note that it is suggested in that instruction that if claims under the Turkish Petroleum Company's concession continue to be asserted, the matter should be submitted to suitable arbitration.

In any general settlement with respect to possible claims the Department feels that it would be advisable to provide for a suitable and impartial court or some other appropriate plan for arbitration so that there may be a just settlement of any contested claims in any of the territories under consideration. Such a plan would include conflicting oil claims whether they arise from concessions the extent or validity of which are in dispute or from conflicting property claims such as are involved in connection with the claims of Abdul Hamid's heirs, as well as any other claims which may cause difficulty.

The position of the American Government as stated above should be indicated upon the proper occasion.

HUGHES

867.4016/821 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 28, 1922—7 p.m.*
[Received 9:10 p.m.]

159. Your telegram 65 of December 26. In the 15th meeting of the first commission Curzon, assuming to speak for the Allies, made a demand in general terms that Turkey provide a national home for the Armenians. We have statements signed by Barton, Peet, and Montgomery ready to transmit to the conference when the question arises. These statements, however, offer nothing impressive either in the nature of a plan or in convincing evidence. To us it seems quite evident that the Allies will use this question only for trading purposes but would gladly have the American delegation become involved in pressing it so that it might appear that we were entering into territorial and political settlements.

AM[ERICAN] MISSION

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[54] *Foreign Relations*, 1921, vol. II, p. 86.

767.68119 T&M 3/6 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 29, 1922—midnight.*
[Received December 30—4:05 a.m.]

165. The following statement was made today by the American representative at the meeting of the subcommission on minorities:

"The American delegation desires to call attention to the fact that amnesty limited to populations now within Turkey would make no provision for the right of deportees or refugees to return safely to their former homes and under proper regulations have their property restored. It appears that common humanitarian principles will require that provision be made for Armenian and other refugees originally subjects of Turkey who have been deported or have fled for safety. It is clear to the American delegation that hundreds of thousands of refugees may desire to return to their homes under proper conditions of amnesty and that injustice will be done if these living persons or their heirs are deprived of their property. We believe that there will be no approval in the public opinion of the world of the omission from this peace of some declaration by Turkey, preferably a voluntary declaration, which will do justice to those who now suffer deprivation of home and fortunes."

AM[ERICAN] MISSION

767.68119 T&M 3/8 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *December 30, 1922—1 p.m.*
[Received 2:17 p.m.]

168. The following statement submitted today to subcommittee on minorities with enclosures by Montgomery and by Barton and Peet which will be forwarded by mail[55] unless Department instructs otherwise:

"The proposal for the establishment of an autonomous area to provide refuge for Armenians is one which has engaged the deep and sympathetic interest of large bodies of citizens in the United States. Nor can it be forgotten that the Allied Powers on several occasions have taken the position that a national home for Armenians was a wise provision to give justice and security.

The American delegation has made already declarations upon the humanitarian questions which are our legitimate interest. We now place before the subcommission evidence bearing upon one subject which has engaged much attention from public opinion in America.

We have asked the representatives of American societies and organizations for definition as to the territory and area proposed for a national Armenian home; as to guarantees of financing and the methods of equitable distribution of financing among the countries inter-

[55] See despatch no. 27, Jan. 3, 1923, p. 943.

ested; as to the protection necessary and how it is proposed that this protection be given to guarantee any new autonomous area from attack or incursion; as to the number of Armenians that would be immediately available for settlers in the proposed area and as to other evidence tending toward a concrete program. And we place in the hands of the chairman of the subcommittee the material submitted to this delegation and ask that it be given full consideration."

Following statement issued to press to whom were also handed copies of our statement quoted above and Montgomery's memorandum:

"The American delegation though not negotiating a peace treaty nor submitting definite plans for adjustments to which the United States Government cannot become a signatory has stated to the conference its full approval of the demands of Lord Curzon and other Allied statesmen for any practicable plan for a national Armenian home and for an acceptance of such a plan. The American delegation has sought and obtained the views of those who represent the movement in the United States for a national Armenian home and who may be considered as representative experts upon the subject and has laid these views before the conference today. In addition to this and in behalf of the Armenians and Americans interested we have given assurances that the case for a national Armenian home would be put before the conference and have a hearing. We have contributed and will continue to contribute to insistence that Turkey shall give consideration to any practicable concrete plan which may be put forward."

AM[ERICAN] MISSION

767.68119F&M/3 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *December 30, 1922—6 p.m.*

70. Mission's 157 of December 28, 3 p.m. Your statement on capitulations is approved. Continue use of your influence to secure a settlement giving adequate guarantees.

HUGHES

767.68119 T&M 3/9 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 1, 1923—6 p. m.*
[Received 11:23 p.m.]

170. In presenting to the subcommittee material supplied by representatives of American organizations interested in a national home for the Armenians, we did not offer any proposal from the American

delegation. We made it clear that we have no intention to take any initiative at this time or to make any commitments prior to the presentation of a definite program supported by the Allies. It is entirely unlikely that there will be any sincere support from them and this, we think, the Turks fully understand. The sittings of the minorities subcommittee seem to be near an end, and we did not think it wise to postpone giving such satisfaction as our instructions indicated could be given to public sentiment in the United States interested in the Armenians. It was especially urgent that we do this because we had been given to understand that at any moment Curzon might make a conspicuous gesture on this issue with the object of appealing to public sentiment in America by contrast with the silence of the American delegation.

We add the following for any use you may desire: We have received a letter from Montgomery, representative of the Armenia-America Society, in which he declares that we have "hit the nail on the head" in our handling of the situation.

AM[ERICAN] MISSION

767.68119 T&M 3/9 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 2, 1923—5 p.m.*

72. Mission's no. 168 of December 30, 1 p.m. and no. 170 of January 1, 6 p.m. The statements quoted in your 168 are approved. In this case, as in that of the statement concerning the Greek Patriarch, the press in this country has not made a distinction between the recommendations of others which you have brought before the conference and the position which you have taken officially. To avoid misunderstanding in future cases, the Department prefers that you do not formally transmit the recommendations of individual Americans unless you can give to them your official support.

A press despatch quotes a provocative statement made in an interview by Riza Nour Bey criticizing American missionaries and indicating that he had seen press reports to the effect that in raising the Armenian question you had gone beyond your instructions. There is no basis in any Department statement for such reports. When inquiries have been made the Department has pointed out the distinction between your official attitude of helpful assistance in any practicable proposal holding a promise of real aid to the Armenians and the memorandum prepared by Barton, Peet, and Montgomery in which it was proposed that a national home for the Armenians be established in Cilicia and means were suggested for financing the plan.

It is also reported in press despatches from Lausanne that under an order from Angora all negotiations between the Turks and American business interests have been placed in abeyance because of the American note concerning a national home for the Armenians. You will, of course, understand that Turkish threats are not to affect your continued support of measures for the assistance of the suffering peoples of the Near East.

Send summary of this telegram as well as your 168 and 170 to Constantinople.

HUGHES

767.68119 T&M 3/19

The Special Mission at Lausanne to the Secretary of State

No. 27 LAUSANNE, *January 3, 1923.*
[Received January 15.]

SIR: I have the honor to refer to this Mission's telegram No. 168, of December 30, 1 p.m., embodying the statement which we submitted on that date to the Sub-Commission on Minorities as well as a statement issued to the Press. I am enclosing herewith copies of these two statements together with copies of the enclosures by Mr. Montgomery, Dr. Barton and Dr. Peet, referred to in our telegram No. 168, mentioned above.

I have [etc.]

For the Mission:
JOSEPH C. GREW

[Enclosure 1]

Dr. James L. Barton and Dr. W. W. Peet to the Chief of the Special Mission at Lausanne (Child)

LAUSANNE, *December 14, 1922.*

DEAR SIR: After many conferences with the Turks and others, and after deliberate consideration, we are convinced that the best solution of the Armenian minority question would be the designation of a specific territory into which refugee populations, including orphans, could be conducted.

It seems to us that:

(1) The relief question would in this way be most quickly and economically solved, a point which is of prime importance to the American Relief Organizations.

(2) The Armenians would be more effectively protected than if scattered throughout the country amidst Turkish populations.

(3) The Turks in the end would be better satisfied.

(4) This would be most acceptable to the Armenians and they would be willing to settle in such a locality while they fear to return to their former homes among the Turks.

(5) We are confident that such a solution would meet practically the unanimous approval of the people of the United States when the suggested plan of a return to their former homes would be looked upon there with great suspicion and doubt.

You would be the best judge as to the time to bring this matter forward for consideration.

We remain [etc.]

JAMES L. BARTON
W. W. PEET
Representing the Federal Council of the Protestant Churches of America

[Enclosure 2]

Memorandum of the Armenian National Home Presented in Behalf of the Armenia-America Society

1. The Location of the Home:

The best location for the Home should be determined by the sub-commission. The sub-commission is in a position to know all the factors involved better than anyone outside.

It is worth while, however, to point out certain advantages in locating the Home in the zone north of Syria.

(*a*)—This zone, lying between the northern boundary of Syria as fixed by the League of Nations when the mandate over Syria was given to France, and the boundary as drawn in the separate agreement between France and Angora, may be said to be still in debate. The final adjudication of this zone must be made by the present Conference. The disposition of this zone is definitely in the hands of this Conference.

(*b*)—There might be an advantage for the peace of all that region if there were a neutral zone between Turkey and Syria.

(*c*)—It would be easy to persuade the refugees to go into this territory.

(*d*)—The territory has ready access to the sea.

(*e*)—If that part of the zone lying west of the Euphrates could be enlarged toward Sis and Albistan in compensation for abandoning that part east of the Euphrates to Turkey, there would be a district with neutral frontiers comprising some 18,000 square miles whose separation from Turkey would not affect Turkey's internal development.

(*f*)—The general consensus of expectation in America is that the territory would be autonomous under the administration of the League of Nations.

2. The Matter of Finance:

The inauguration of the administration of a territory like this would call for the expenditure of an initial sum. This initial expenditure would be assumed by the territory as a debt, and there is every reason to expect that in the course of a few years, there would be repayments on behalf of the debt.

Of course, no one is in a position to guarantee the financing. It may be said, however, that this very morning, was received from America a cable to the effect that the friends of the project over there are introducing into Congress a resolution providing for a loan not to exceed 20,000,000 dollars in behalf of the proposed Armenian National Home. This was the amount voted last year for the Russian famine.[58] We cannot be sure of the actual passage of such a bill, but there will be strong sentiment in its favor.

There might be the possibility of floating a small loan in America among those interested in the Armenian cause.

It is natural to assume that the Council and the Assembly of the League of Nations have considered the matter of the financing when they passed resolutions calling for the establishment of the Home.

It is natural also to assume that the representatives of Great Britain, France, and Italy, had considered the matter of the financing of the Home when they included the project in the propositions set forth March 26 [*27*], last.[59]

3. The Matter of Safety from Invasion:

It is presupposed that the neutrality of the territory will be recognized by all the parties who sign the Treaty at Lausanne. It would be futile to attempt to establish a Home if it were necessary to maintain an army large enough to resist invasion. Under these circumstances, with the neutrality recognized by all the Powers, and in view of the membership in the League of Nations of the contiguous countries, it is not possible to foresee any need for even a small standing army. All that would be required would be a small *gendarmerie* for the purpose of policing the country.

4. The Settlement of the Refugees:

It is not to be expected that the Armenians of Constantinople would leave their homes to settle in the National Home. There are, however, some 15,000 refugees in Constantinople, in large part agriculturalists, many of whom would welcome a chance to settle in such a Home.

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[58] See Executive Order No. 3601, Dec. 24, 1921, *Foreign Relations*, 1921, vol. II, p. 822.

[59] Great Britain, Cmd. 1641, Miscellaneous No. 3 (1922): *Pronouncement by Three Allied Ministers for Foreign Affairs Respecting the Near Eastern Situation, Paris, March 27, 1922.*

The recent refugees from the Smyrna region and from Asia Minor amount to some 110,000, most of whom would welcome a chance to go to the Home, if there were an opportunity to earn a livelihood. Even before the recent arrivals, there were some 75,000 refugees in Syria, a large part of whom have not yet taken root in Syria. There are some 400,000 refugees in Russia, especially in the Caucasus region, many of whom would be glad to go into a protected region where they can begin the work of reconstruction.

There are some 50,000 children in orphanages and those in charge of these orphanages would be glad to transfer them to such a protected Home, as soon as suitable provision could be made for taking care of them.

There are doubtless immediately available far more refugees than could be immediately transferred to such a National Home. As clearly as can be foreseen, the total number of immigrants who would settle in such a territory, say as that which has been suggested in the Cilician region, would be between two hundred thousand and three hundred thousand.

GEORGE R. MONTGOMERY

LAUSANNE, *December 16, 1922.*

[Enclosure 3]

Annex to Memorandum of the Armenia-America Society

A telegram has just been received from America to the effect that the following resolution is being introduced into Congress: "Resolved that the President be empowered to loan from the Treasury the sum of twenty million dollars, provided that the Lausanne Conference makes adequate territorial provision for the Armenian National Home".

GEORGE R. MONTGOMERY

LAUSANNE, *December 18, 1922.*

767.68119 T&M 3/15 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 6, 1923—10 a.m.*

75. Mission's 168, December 30, 1 p.m., 170, January 1, 6 p.m., and earlier correspondence concerning a national home for the Armenians. Vartan Malcom, representative in Washington for the Armenian delegations at Lausanne, has informed the Department that the Armenian delegations consider a region in Cilicia between the Djihan and Euphrates rivers, extending north to Sis and Albistan a satisfactory location for the Armenian national home. . . .

It is not believed by the Department that satisfactory results can be obtained by pressure upon the Angora Assembly or the Turkish delegation at Lausanne from foreign powers. Turkish national feeling would probably be aroused by such action resulting in increased difficulty in winning success for any plan. If anything is to be accomplished, it would seem that the best method would be to have informal conversations with the Turkish delegates and impress upon them that it would be desirable to have the Turks themselves take the initiative as an act of generosity and not under pressure from foreign powers. One can hardly overestimate the good results which such an act would have upon relations between America and Turkey.

An Associated Press despatch of December 26 reports the statement by Noradoughian before the conference suggesting an Armenian national home with dominion status under Turkey. The moderation and tact with which Noradoughian presented the Armenian case has impressed the Department. Presumably the memorandum presented by Barton, Peet, and Montgomery was somewhat similar in its nature. Apparently the national home proposed by the Armenian delegations is entirely within Turkey, just north of the frontier of the Syrian mandate. Our representatives in Syria have reported repeated rumors that the French were considering withdrawing soon from northern Syria. The idea has occurred to me, therefore, that France might be willing to give up a small area near Alexandretta to be merged with another small area near Osmanie to establish a national home for the Armenians with local autonomy but under the sovereignty of Turkey. Presumably it would greatly facilitate concessions by Turkey were France to take such action. Malcom has information that if the necessary financing were arranged, the Swiss Government would not be disinclined to accept a mandate. The Department cannot predict what action might be taken in this matter by private initiative or by Congress. There is doubtless widespread favorable public sentiment in this country, and, in my opinion, if the political arrangements were satisfactory a considerable amount could be raised to assist in financing a national home for the Armenians. Any plan with a prospect of bringing about constructive spending of charitable funds instead of the continued feeding of refugees with no assured future, would be certain to appeal to the American people.

We are offering the above considerations confidentially for your information and desire your opinion as to whether action along such lines with any hope of success is practicable. We have no objection, if you think it appropriate, to your sounding out the French delegates informally with respect to their attitude toward certain concessions by France in northern Syria which might make it easier for Turkey to consider the setting up of a national Armenian home.

HUGHES

767.68119 T&M 3/16 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 7, 1923—noon.*
[Received 5:20 p.m.]

184. Your no. 75, January 6, 10 a.m. The American delegation has received no evidence that Ismet or any other Turkish delegate privately is in sympathy with the proposal for an Armenian national home. The views which the Allied delegates privately express also give no indication of an opinion that any concrete plan can be formulated which will be wise even from the standpoint of the best interests of the Armenians. The establishment of small, segregated areas, autonomous or otherwise, is not looked upon with favor . . . We think it is the opinion of all the Turkish delegates that such Armenians as are left in Turkey will be useful where they are and that they will also be safe and contented if not subject to foreign intrigue. We believe the Turks would absolutely reject any plan inducing Armenians to return to Asia Minor, even though it did not involve loss of territory or sovereignty. We have held the conversations suggested in your telegram under reference but there is no question upon which the Turkish delegates are more unyielding.

AM[ERICAN] MISSION

767.68119/362 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 9, 1923—3 p.m.*
[Received January 10—11:40 a.m.]

186. Conversations yesterday with Curzon, Bompard, and Garroni.[60] The present outlook appears to be as follows:

There is little expectation on the part of the British that a peace can be framed which will resolve all issues raised, but they think that a treaty of peace can be drafted from which the mention of certain demands of the Allies could be omitted, and by which other matters could be either entrusted to the decision of commissions or left in suspense. This view is also that of the French and Italians, who are, however, disinclined to leave question of the capitulations to a commission of jurists from Turkey and the capitulatory powers lest delay in elaborating a new arrangement will work injury to their own nationals. All concerned believe that the extreme views adopted

[60] First Italian delegate.

by the Turkish Government will stand in the way of a settlement of questions which the Turks regard as touching their national sovereignty, and will lead to imperfect solutions for such other questions as minorities, debt administration, and foreign relations. Settlements are taking form, although it is plain to everybody that the Turks, seeing the reluctance of the Allies to establish their claims by force, are now going back even on the settlements already arrived at. The Allies are in a humiliating position from which they can be extricated only by playing upon the desire of the Turks to obtain peace and to take up unhampered the task of their own economic rehabilitation. The Allies can influence the Turks in only three ways: by counsel, by force, and by economic pressure. Their counsels are now disregarded, none of them is willing to employ force, and there remains therefore only the power of economic pressure with which to patch up a treaty.

The Allies still seem to present an unbroken front, and their embarrassments will no doubt compel them to cooperate in retrieving what they can under the circumstances.

There is a good deal of uncertainty in the policy of the Allies regarding the treaty which is being drafted. They are now disposed to draw up general forms of proposals to be offered for the consideration of the Turks rather than to present a complete and definitive draft of a treaty. They have also not yet decided whether they should limit their proposals to matters upon which the Allies are prepared to take a firm stand, or should admit others, such as delimiting territory for the Armenians, upon which they may yield. We will try to obtain for the Department a draft of the treaty as soon as these questions are decided.

We have broached the matter of Mosul to Curzon, who discussed it confidentially. He informed us that the Turks began by asking only for a portion of the oil produced, but that they soon expanded their demands to include all the Mosul territory. Curzon stated explicitly that there had not been any discussions on petroleum, but he intimated that the time might come when, in order to provide the Turks and Italians a share in the oil rights, the British, French, and Americans would have to reduce their own portions. Upon these observations no comment was made. But when Curzon remarked in a tone of expostulation upon the activities of Bill Meyer [*Untermeyer?*] here on behalf of American interests [61] trying to induce the Turkish delegates to recognize Abdul Hamid's claims, he was informed that the American delegation had not at any time engaged the Turks in a discussion of the Donovan [*Ottoman?*] interests.

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[61] The Ottoman Imperial Estates Co.

It is the opinion of Salisbury [*sic*] and Barrère that there will be no war even if the negotiations here are broken off, but that should hostilities ensue it will be the Turks who will begin the fighting. They believe that so long as there is a risk of bringing France and Italy into the war against them the Turks will refrain from an advance upon Constantinople, and that an advance in the direction of Mosul would be held up for some time by discontent in the Army, the rigours of winter, and other hindrances.

Many reliable sources of information indicate that Soviet agents and representatives of groups interested in supplying the Turks with munitions are in touch with the Turkish delegation here.

AM[ERICAN] MISSION

867.4016/817

President Harding to the Secretary of State

WASHINGTON, *January 15, 1923.*

MY DEAR MR. SECRETARY: I was deeply interested in yours of January 12th,[62] in which you report the efforts of our Mission at Lausanne to do something in behalf of an Armenian national home, and the utterly discouraging reports that there are no prospects of the Turkish delegation agreeing to any such arrangement. It is going to be a very keen disappointment to religious America that the Armenian Christians are to be dealt with in this manner, but I frankly do not see how we can do more than strongly appeal in their behalf. The most ardent supporters of the Armenians in America would hesitate to sanction armed warfare in order to establish a separate territory for the Armenians.

Very truly yours,

WARREN G. HARDING

767.68119 F&M 2/10 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 15, 1923—12 p.m.*

[Received January 16—2:40 a.m.]

196. At the ninth meeting of the subcommission of the second commission held January 15 regarding the future fiscal regime applicable to foreigners in Turkey Gillespie [63] read the following statement:

"The future fiscal regime applicable to foreigners in Turkey is a matter of legitimate concern to the United States. The representatives of the United States desire to take this opportunity to point out

[62] Not printed.
[63] American trade commissioner at Constantinople.

that by virtue of treaties, usage and custom citizens of the United States have enjoyed certain rights in Turkey.

The United States understands that the Turkish Government desires to be free from any and all unwarranted restrictions upon its sovereignty. It is not the desire of the United States to obtain special privileges for itself or its nationals but it desires to protect its rights and to assure for its citizens opportunity and privileges equal to that of other nationals in Turkey.

In case existent rights are to be replaced by others with the joint consent of Turkey and the United States the new regime set up will require as a minimum not only the most-favored-nation treatment but also the equality of commercial, professional and institutional exemption, opportunity of privileges which Turkey accords to her own nationals in the field of commerce, business, education, charity or religion. A clear distinction must be made between the existence of internal [laws] of Turkey which are subject to repeal or change at any time and the existence of specified rights of [other] countries and of their nationals. It is the common custom of nations dealing with each other to define these rights by international treaties and not by domestic legislation.

The representative of the United States desires to point out particularly that the property and activity of commercial and industrial enterprises and of religious, educational, welfare, relief and charitable institutions in Turkey should enjoy any special exemptions or privileges which now exist under Turkish law or which Turkey may have the inclination to put into effect by international agreement and by internal legislation.

It is believed that Turkey will desire to provide now by treaty stipulation the guarantees that will insure the continuation of all foreign enterprises in Turkey that are to her advantage and encourage their further increase and development. Treaty stipulations are necessary to give confidence that domestic legislation will provide suitable and reliable guarantees."

AM[ERICAN] MISSION

767.68119/373 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 18, 1923—4 p.m.*

[Received January 19—10:30 a.m.[64]]

198. Questions which are now engaging the conference became the subjects of a general discussion during a private interview yesterday with Ismet Pasha. He seemed in a firm and optimistic mood and not at all disposed to abandon any of the positions the Turks had taken or to concede anything in regard to matters still unsettled and in debate. When the question of the Mosul boundary came up again, it was clearly and emphatically explained to Ismet that

[64] Telegram in two sections.

the United States Government does not concern itself in the question of boundary, and that whatever may be done ultimately with the Mosul territory, the United States will adhere to its policy of the Open Door regarding oil concessions. Likewise, when Ismet brought up matters relating to the treaty of peace between Turkey and the Allies, he was told that although the United States Government desired to see an equitable settlement of all questions, yet it could not concern itself directly with questions of the peace and did not wish to be drawn into a discussion of them except as they might touch upon American interests.

Conversation revolved principally around the capitulations. It was especially pointed out to Ismet that if the capitulations are to be abolished it will be necessary to make some new arrangement in their stead, and every reason was advanced to persuade him that the capitulations cannot be abolished unless they are to be replaced by a new arrangement. (No reference was made to tax immunities and other economic privileges of the capitulations, as the subcommissions are making some headway in arranging these matters.) Ismet was reminded that the administration of justice in Turkey is not yet fully developed and perfected, and he was offered the following points for consideration: (1) present mistrust of Turkish judges, owing to their inadequate pay and improper selection; (2) delay in effecting indispensable reforms in civil, penal, and commercial codes, in reducing them to order, and in freeing them from the influence of religious laws; (3) the absence of laws effectively regulating the procedure and the receiving and weighing of evidence in Turkish tribunals; (4) the absence of laws protecting foreigners against arbitrary entry of domicile; (5) want of modern regulations and equipment in Turkish prisons. It was particularly pointed out to Ismet that it would take time to put into operation a system of courts and laws which would induce foreigners to establish themselves in Turkey and to make investments for Turkey's development.

Foregoing statements passed unrefuted by Ismet. He denied, however, that either for the good of foreigners who wished to trade in Turkey, or for the good of Turkey itself, was it indispensable to reform the present system of administering justice. He argued that the apprehensions of foreign commercial interests were fantastical, and that even if foreign business men hesitated to begin at once their operations in Turkey, they would discover later on, within a few months, that their fears were unfounded and would resume their traffic without the capitulations. He believed in any case that by abrogating the capitulations and by declining to permit the establishment of even a provisional regime under which reorganizations and reforms could be worked out for a new system to replace the

capitulations, the advantages to Turkey in a complete independence would outweigh any alternative advantages. The sole desire of the Turkish nation was to establish now and forever its right to complete liberty in its domestic affairs and to remain free of foreign intrusions.

The tone of the interview, which lasted some time, was entirely friendly throughout. Ismet appeared to be sure of himself in the course he has chosen and displayed confidence and good spirits. He has an air of certainty in being able to hold his ground against perpetuating the capitulations or establishing a provisional regime, and in spite of everything seems ready to face any consequence whatever. He informed us that the neutral states, whose representatives he had consulted, were ready to have the capitulations entirely abolished. (If possible, a list of these states will be forwarded to the Department later.) In conclusion Ismet said he trusted that hereafter no further consideration would be given to the capitulations or a provisional regime. He was told that we had already discarded the word "capitulations", since it was plainly distasteful to him. It appeared now that the term "provisional regime" was also objectionable. We would, therefore, devise another phrase and take up again the consideration of means by which friendly relations could be restored between our two countries, and American enterprises could be resumed in Turkey during the transition from the system of capitulations to a new regime.

The interview was not very profitable. But we continue to hope that in the end we may guide the Turkish delegation into a course which will give satisfaction both to themselves and to the powers, especially where American interests are concerned.

During interview between Ismet and Curzon, which was arranged by this Mission, Ismet's position was in general the same as reported above.

AM[ERICAN] MISSION

767.68119T&M/47 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 21, 1923—noon.*
[Received January 21—11 a.m.]

202. It has been intimated to Child by the British delegation that the meeting of the first commission on territorial and military affairs on the morning of January 23, which will consider the Mosul territorial problem, may result in referring this question to arbitration. It is the feeling of the British that the Turks may be willing to arrange in some way to have the question arbitrated, as the Turks

do not desire to leave it to exclusive British-Turkish negotiation. Our position heretofore has been that in whatever way the territorial question is settled we will insist upon each side recognizing our policy either as set forth in the note of Secretary Colby [65] and subsequent statements, or under the general principle of the Open Door. We do not think that there has been any substantial arrangement between either the British and Turkish Governments or their nationals vitally affecting the distribution of participation in the oil resources by various national interests. We invite the Department's instructions, comment, or suggestions upon this subject.

AM[ERICAN] MISSION

767.68119 F&M 1/13 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract—Paraphrase]

LAUSANNE, *January 21, 1923—4 p.m.*

[Received 8:20 p.m.[66]]

203. The Allied members on the subcommittee on the judicial regime of foreigners held a special meeting yesterday afternoon to which Americans were invited. Drafts of a convention and of a declaration were submitted by the chairman. These represented the latest Allied proposal for a settlement of the problem of capitulations.

It is planned to have the convention between Turkey on the one part and the British Empire, France, Italy, Roumania and Yugoslavia on the other. No mention is made of the "Allied Powers", the designation "contracting powers" being used throughout. Article 21 provides that nonsignatory powers may adhere to the convention through their diplomatic representatives in France.

. . . . . .

AM[ERICAN] MISSION

767.68119/378 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 21, 1923—8 p.m.*

[Received 9:55 p.m.]

205. The representatives of Denmark, Netherlands and Spain have addressed a collective note to the convening powers and have forwarded a copy thereof to the Turkish delegation requesting that a clause be inserted in the ultimate treaty of peace which will permit

[65] See note of Nov. 20, 1920, to the British Secretary of State for Foreign Affairs, *Foreign Relations*, 1920, vol. II, p. 669.

[66] Telegram in two sections.

their countries to adhere to that part of the treaty which deals with the capitulations. The Spanish representative informs us today that Ismet for his part has refused his request, but it is understood that he is prepared to open negotiations immediately for separate conventions with these powers relating to the position of their nationals in Turkey.

As regards the other neutrals we are informed that the Swedish representative abstained from this collective action because he had first approached Ismet individually on the subject and had been told that the Turkish delegation would not favorably consider their adhesion to the treaty. The Norwegian representative abstained on the ground that Norway's treaty of 1907 with Turkey contains a most-favored-nation clause which Norway considers to be in full effect and does not wish to jeopardize by any action which might imply the contrary. In view of the existence of this comparatively recent treaty Norway considers her position with regard to the capitulations as more favorable than that of any other nation represented at Lausanne. The Belgian representative regards Belgium as an ally and belligerent as in a position differing from that of the neutrals.

AM[ERICAN] MISSION

767.68119/379 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 22, 1923—8 p.m.*
[Received January 23—1:37 a.m.]

207. After conferring with Poincaré in Paris, Bompard has returned to Lausanne. Barrère, with whom Child talked today, has consulted his physician and has been ordered to quit Lausanne. A notable change in relations between French and British is evident today from conduct of both Barrère and Curzon. . . . Today the French seem to wish to bring the conference to an immediate conclusion, and if the Turks are unwilling to accept a treaty, then to wait until they become more conciliatory. Heretofore, however, the French have preferred a more leisurely method in dealing with the Turks than Curzon's more rigorous manner permitted. It is privately predicted by Montagna, the second Italian delegate, who until now has never lost hope, that any further negotiations are not likely to prove satisfactory since the Allies have reduced themselves to impotence and have already made every possible concession. Montagna is also in favor of bringing to an issue the business of the conference and of presenting the Turks with a treaty without further delay.

The British as well as Montagna have made veiled accusations against the French, imputing to them a desire to make separate terms with the Turks and hinting that they are already offering to negotiate a loan to the Turks. Since Bompard came back from Paris, therefore, the weakness of the Allies' position has become conspicuous. They have no confidence in one another and there are evidences that the French are prepared to turn the situation to their own private advantage.

It is now proposed that a draft text be presented to the Turks on January 29, and that the chief delegates shall then disperse allowing the Turkish delegates and their Government an interval for consideration. It is Curzon's intention not to yield on this point, as he will not consent to have private and separate discussions going on between the chief representatives after his departure. None of the Allied delegates is able to predict whether the treaty will now be accepted by the Turks. We believe, however, that the Turks regard this as an opportune moment to make peace, that they see there is little to be made by postponement and are aware of the risk of losing what they have already won at Lausanne, and that they are sceptical of the alternative advantages to be derived from separate agreements.

Under the circumstances set forth above we venture to recommend the following course: While the Turks are examining the treaty, our Mission should stay on at Lausanne, if any of the delegations of the Allies remain; we should leave if they agree to disperse. Grew could easily keep in touch with events here at Lausanne. Bristol's presence in Constantinople would have a good effect, as he could wield more influence there just now than at Lausanne.

If the Turkish delegation loses the present favorable opportunity for making peace with the Allies, we believe that they should be given time to revise their views before we take any steps toward negotiating a treaty with them.

On the other hand, it is our belief that if they show themselves ready to sign with the Allies we should proceed immediately to negotiate our own treaty.

AM[ERICAN] MISSION

767.68119 F&M 1/14 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 23, 1923—5 p.m.*

87. Mission's nos. 203 and 205 of January 21 and last sentence of Mission's 204 of January 21.[67] In our opinion the situation you have

[67] No. 204 not printed.

described does not make necessary any change in the attitude of this Government concerning capitulatory rights. Continue to cooperate to help other powers with capitulatory rights to secure from Turkey recognition of reasonable and proper safeguards. Advise the Department in case you think that the Allied proposal which you have cabled and which the Department is now studying contains any provisions which are unnecessary or unreasonable.

The Department can best determine after the complete final text of the agreement has been considered whether the United States should become a party to the proposed treaty on capitulations or should include like provisions in its own treaty with Turkey. The latter course would appear the better one for reasons which are indicated in our no. 85 of January 18, 3 p.m.[68]

Do you feel that in case of failure to secure guarantees to take the place of the capitulations as contained in the proposal you have cabled the Allies would risk a breaking off of negotiations? Is it your impression that if the cooperation of American legal experts could be obtained the Turks would be more inclined to accept the aid of foreign judges in reforming their judicial system?

Try to obtain and cable the text of articles 10–14 which contain the fiscal clauses and article 20 concerning schools, which are mentioned in Mission's no. 203 of January 21.

HUGHES

767.68119T&M/49 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 24, 1923—noon.*
[Received 2:05 p.m.]

210. At the end of the 22nd meeting of the first commission on military and territorial questions held yesterday, copies of the following statement by Mr. Child were handed to the chairman; the secretary general for the records; as [*and?*] to the various delegations:

"Lord Curzon has expressed the detachment from the British claim to continue as administrators of the mandate of Mesopotamia, of questions pertaining to resources of the country. In the course of his remarks he expressed also the attitude of himself and of his Government toward certain concessions in that territory in a manner clearly to indicate that the British Government would hold aloof so far as possible from making such concessions the subject of diplomatic interest and restated his belief in the principle that large factors in the world's resources should not become the subject for monopolistic development.

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[68] *Post*, p. 1045.

The American representatives taking no part in the territorial settlement nevertheless are glad to associate themselves with the intent of Lord Curzon's remarks upon this subject. The American representatives have expressed their Government's policy of the Open Door and Lord Curzon has stated his adherence to this policy, but neither the statement nor the adherence had reference to any particular resource or field of economic activity and only those who wilfully perverted these declarations have read into them meanings which suit their own political ends.

The American representatives feel it their duty to refer to Lord Curzon's specific mention of the validity of the claims of the Turkish Petroleum Company and to remind the conference that without seeking special privilege or favor the Government of the United States has not assented to the principle that it may be dissociated in the rights of peace from the usual consequence of association in war nor in other cases where another principle is involved will it abandon the policy of the Open Door. We refer to a substantial correspondence by our Government already accumulated under two successive political administrations in the United States.

So far as means to furnish protection to legitimate American interests is at their hands it is always [*does not affect*] the duty of the American representatives whether the identity of the American rights is associated with a commercial or any other American interest. For this reason the mention by Lord Curzon of a certain corporation and its claims is one giving the American representatives appropriate opportunity to suggest that where there are conflicting claims already in existence in respect to legal rights to resources there should be provided a means for a juridical settlement of these rights which would give full and complete assurance of impartiality. Such impartiality cannot be provided for specifically in Turkey [*in advance?*]. Under a general principle the interested parties should be satisfied as to the impartiality of the juridical determination at the time of the reference of the conflicting claims."

AM[ERICAN] MISSION

767.68119/379 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 25, 1923—6 p. m.*

90. Your 207, January 22, 8 p.m. Your recommendations approved by the Department. You will receive more precise instructions after the Department learns what action the Turkish and Allied delegations take in case the conference is terminated or suspended.

The Department concurs in your view that if the Allies are not able to settle with Turkey we should not at once begin our own negotiations. It might be desirable, however, to have an exchange of notes with the Turks, in case they show themselves well disposed toward our commercial and philanthropic enterprises in Turkey, and, if you

can, without seeming to cast doubts upon our rights, get from them a written declaration of their friendly intentions. Before taking any steps, cable your views on the above.

HUGHES

767.68119/383 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 25, 1923—7 p.m.*
[Received 10:44 p.m.]

216. The following timetable for the conference was adopted yesterday by the plenipotentiaries of the three inviting powers and circulated to the Allied and American delegations by Lord Curzon's instructions: Wednesday, January 24th. Thursday, January 25th, final meetings of subcommissions. Friday, January 26th, final meeting of Monsieur Bompard's commission,[69] final meeting of Marquis Garroni's commission.[70] Saturday, January 27th, completion of review of the treaty. Sunday, January 28th, examination of treaty by three Allied delegations and handing of advance copies to the other Allied Powers. Monday, January 29th, handing of advance copy of the treaty to Turks and of Straits convention to Russians and Bulgarians. Wednesday, January 31st, presentation of treaty to Turks at combined meeting of the three commissions. Thursday, February 1st, discussion at first commission [71] [of] Straits convention if desired by the Turks or Russians. Friday, February 2nd, departure of the Allied delegations.

AM[ERICAN] MISSION

767.68119/384a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 27, 1923—8 p.m.*

92. The Department believes that, as the conference is drawing to a close, an occasion will present itself for you to make a suitable statement summarizing the views of the United States Government upon the chief questions which have been discussed at Lausanne and upon which you have already at different times explained our position.

It is evident that for the moment the basic question at Lausanne is whether they can restore peace or whether they must permit matters to remain unsettled and perhaps drift into war. It is, of course, the

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[69] On economic and financial questions.
[70] On the regime of foreigners.
[71] On territorial and military questions.

desire of the Department to make every proper endeavor to bring about peace, and it considers that you may be able to play a useful part to that same end.

It would be helpful to the Department to receive your views on the proposed *exposé* of this Government's position. If it should seem politic, however, to take some step before you receive instructions, the Department commits to your discretion the making of such a statement.

A project for a treaty of friendship and commerce with Turkey has been drafted in the Department, and if required it can be cabled to you.

HUGHES

767.68119 F&M 3/6 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 27, 1923—8 p.m.*
[Received January 27—7 : 33 p.m.]

218. In both the subcommission and in the full commission it was evident that the Turks would not even consider a proposal to grant privileges of research in archeology except as provided by their domestic legislation. It therefore did not seem expedient to make on our own behalf public statements which could only be supported on the basis that the sovereign rights of Turkey were different from those of other states. When and if we enter into separate negotiations we may repeat our private representations.

AM[ERICAN] MISSION

767.68119F&E/10 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 27, 1923—9 p.m.*
[Received 10 : 25 p.m.]

219. At today's meeting of the third commission [72] a draft on reparations proposed by the Allies contains the following proposals regarding uses of future concessions in Turkey by the Ottoman Debt Commission.

"Revenues given as security shall in all cases include the proceeds of concessions existing or to be exploited. The Turkish Government shall consult the Council of the Debt [for their advice] on all contracts pertaining to new concessions or to the extension of concessions to be accorded to Ottoman or any other nationals."

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[72] On economic and financial questions.

[Paraphrase.] Prior to the meeting of the commission Child privately made representations that our delegation would enter strong reservations with respect to the principle involved under certain circumstances, one of which would be the failure of the Turkish delegation to protest. As a result of these representations Bompard, speaking on behalf of the Allies and with Garroni's consent, read the following statement which had been previously shown to us: [End paraphrase.]

"It was far from our intention to infringe in any manner upon the sovereign rights of Turkey which are fully safeguarded by the proposed clauses which in no way provided that Turkey must follow the advice of the debt administration in matters of concessions. Turkey under her own responsibility maintains her complete liberty and the principle of the Open Door continues to remain the one which shall prevail in Turkey in the economic domain."

[Paraphrase.] By this statement it may be understood that two of the Allies hitherto not committed to the principle of the Open Door now adhere to it.

During the meeting the Turks stated that they absolutely rejected the proposal of the Allies. [End paraphrase.]

AM[ERICAN] MISSION

767.68119/385 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 28, 1923—midnight.*
[Received January 29—12:57 a.m.]

220. Referring to no. 92 of January 27, 8 p.m. from the Department. Our own influence and the influence of the United States Government are being applied in every possible way to bring about a peaceful settlement. We do not yet despair of getting something done by means of private conversations which we are constantly having with both sides and at their own instance. But we have not yet achieved tangible results, and the outcome is uncertain.

It may indeed be prudent to find some opportunity before the conference ends to present an *exposé* recapitulating the views of the United States Government upon the principal questions which have come before the conference. This statement would be solely for the purpose of registering publicly the present policy of the United States. It would be of no use, however, in reconciling the opposing parties here, and just now it might even do harm. The final outcome can be influenced at present only by informal discussions behind the scenes. Since the situation is undergoing hourly changes, and

since it is probable that not until the last moment can we know what the final outcome may be, we are grateful that the Department should have left to our discretion whether or not to make the suggested declaration. We trust also that the wording, spirit, and manner of presentation will be left to our choice which must be guided by the course of events.

While the chances of a harmonious solution of the issues are faint, we do not yet despair.

AM[ERICAN] MISSION

767.68119/394 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 31, 1923—4 p.m.*
[Received February 1—5 : 15 a.m.]

226. At the meeting today of three main commissions, following statement was read by Child:

"The United States is represented at Lausanne for three purposes. Our country is represented to protect American interests, idealist or commercial, humane or financial, without discrimination. It is represented to protect, whenever possible, humanitarian interests regardless of their nationality. It is represented to serve in all appropriate ways the cause of peace.

Our declarations have been free from the seeking of special privilege or favor. We have declared for the Open Door in the Near East and our declaration and the spirit of the assent given by the Allied nations in the words of the chief delegates of Great Britain and later in those of the chief delegates of France, speaking for the inviting powers, constitute an accord creating, we hope, a new understanding, a new regime of international relationship in the Near East not only between Western powers seeking to aid development there by friendly and fair competition but between the Near East which desires freedom from political intrigue and those nations who now have no desire for hazardous and costly experiments in policies of political interference.

We have cast whatever weight our opinion might have in favor of freedom of the Straits and the Black Sea because of our sincere belief that the program was for the good of all.

We have spoken against the expulsion of populations when these appeared to menace human beings with suffering and with injustice. We have asked, insofar as it affected religious liberty, that religious functionaries should be allowed to remain where their people wanted them to be. We have asked for the protection of minorities. We have suggested that the problem of refugees in the Near East regions affecting various peoples could only be effectively administered by some joint action, so that unparalleled suffering should be prevented and relieved, that disease should be checked, so that duplication of effort and waste of resources and loss of economies could be avoided. We reiterate that suggestion hoping that the matter may be discussed before the conference ends.

If now at this important stage we can assist in bringing about a peace wanted by the whole world and necessary to the whole world, if we can [add] any contribution to give assurance that the hazards of hostility damaging to all and perhaps wholly destructive of the national vigor of new Turkey may be replaced by agreement, by a stabilized international commerce and the establishment of permanent normal conditions in the Near East, we are ready to give any help in our power.

Perhaps we may be allowed to disclaim the intention to exert any moral influence, if by moral influence it is meant that we set forth our opinions as being more righteous than our neighbors. We ask only that our opinions shall be received when they are founded upon that justice and good counsel which we are all seeking together. I know of nothing which particularly distinguishes the position of the United States here from that of any other nation unless it is the fact that because we are not at war with Turkey and have not been involved in the ancient and bygone politics of the Near East we may bring to bear whatever power there may be in detachment and impartiality. If we have been able to be helpful toward peace we have done so because circumstances had saved us from involvement which would have stripped away our ability to maintain that impartiality and convince others of its sincerity.

At this moment we are able to speak as those who have only that interest at stake which the whole world has at stake—peace.

For weeks in private conversations we have endeavored to speak in this way to the delegates with whom we have enjoyed close association. We have not concealed our views where they have been required nor withheld whatever good offices we could render when they have been asked.

We see no reasons why peace should not be made here; we believe peace will be made here and this belief is not founded upon the sway, this way and that, of accords and dissensions of optimism and pessimism but upon the existence of forces which lead to peace. Unless these forces are met by utter recklessness they are irresistible. The failure of a peace here would be a world calamity; but for Turkey, it would be an irreparable tragedy.

We have observed that many of the difficulties experienced have arisen because of a failure of a newly inspired nation, out of touch because of wars, with the other nations, to understand with how much willingness the other nations of the world are ready to recognize the claims of new Turkey to her independence and her sovereignty and her right to try under favorable circumstances of peace to work out her own destiny.

As we have observed the [*that*] other nations have failed to weigh the doubts and fears of Turkey, so have we observed that the new Turkey has failed to take into account the doubts and fears which it was natural these other nations might have in regard to the period during which Turkey is establishing her institutions.

We have not failed to make it clear that unless an honorable peace were made with Turkey we could not regard with confidence her future. We have not failed to point out that only by peace, made now, will there be given to Turkey an opportunity to build up her institutions, to engage in development and commerce, to secure the

cooperation of other peoples, to begin an orderly relationship with other countries through the exchange of diplomatic representatives and to establish herself in the family of nations. These are advantages to Turkey which are not written in a treaty. It is our view that, though unwritten, they are the most important prizes she could win here.

She would lose them all if she failed to cooperate fully and frankly with the Allies who also entertain an earnest desire to make peace.

She would hazard all her own interests by delay. It is not our purpose to force any of our opinions upon her but it is our purpose with all friendly interest [*intentions*,] to point out again to the Turkish delegation that the peoples of the nations with which Turkey is making peace have become impatient with a passing of time which promises no further progress, which creates risks of conflicts in the Near East, which fosters distrust and hardens rather than softens the public opinion of the world.

The time has come. The time has come for rapid action, for immediate sincere cooperation to make secure to Turkey at least the general principles of a just peace upon which later perhaps the more complex and technical subjects of negotiations may be worked out and when necessary may be settled by the valuable aid of arbitration."

AM[ERICAN] MISSION

767.68119/391 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *January 31, 1923—6 p. m.*

[Received 9 : 05 p.m.]

227. Successive meetings of the first, second, and third commissions were held this morning preceded by a general meeting at which Curzon formally presented to the Turks the draft treaty [73] which they had informally received Monday.[74] The progress accomplished by the commissions was outlined and each chairman emphasized the concessions which had been made by the Allies to the Turks during the progress of the conference.

A general meeting was then reconvened during which statements were read by Child (see our 226 January 31, 4 p.m.) and by the Japanese, Roumanian and Servian delegates.

Ismet in a brief reply pointed out that the draft treaty contained not only articles that had been agreed upon but also articles that had not been agreed to in committees and in addition some entirely new proposals which had never been presented or discussed heretofore. He therefore asked for a period of eight days to enable the Turkish delegation to hold conversations with the Allies in an effort to agree upon

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[73] For text of draft treaty, see Great Britain, Cmd. 1814, Turkey No. 1 (1923) : *Lausanne Conference on Near Eastern Affairs, 1922–1923*, p. 683.

[74] Jan. 29.

the terms of peace. Curzon in reply expressed his satisfaction that Ismet had full powers and need not return to Angora.

A recess was then taken during which the Allied delegates withdrew to discuss Ismet's request. When the meeting reconvened Curzon stated that although Ismet's request was eminently reasonable he was for personal reasons obliged to return within a few days to London. Moreover, as he himself had conducted the negotiations for the British delegation he felt that his Government did not wish him to delegate this duty to another person at the final stage of the negotiations.

He was willing however to postpone his departure until Sunday night and he asked if Ismet could not during the interval carry on the necessary conversations. Ismet replied that he would do his best to meet Curzon's request and the meeting adjourned with Curzon expressing the hope that he would be able on Sunday to shake hands with Ismet on achieving a common victory.

AM[ERICAN] MISSION

767.68119/394 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *February 1, 1923—8 p.m.*

95. Mission's no. 226 of January 31, 4 p.m. Your statement and course of action you are following in seeking peaceful settlement is approved.

Telegraph your views if you think it would materially assist your efforts at Lausanne to have a statement given out here.

HUGHES

767.68119/395 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *February 1, 1923—9 p.m.*

[Received 10:05 p.m.]

231. Prospects appear slightly brighter. Curzon has consented to remain until Sunday, and it is our belief that as long as there is a chance of agreement he will prolong his stay here or permit Sir Eyre Crowe to carry on. There is ground for believing that the Turks do not wish for a rupture, and would be glad to find some settlement not at variance with their ideas of Turkey's full autonomy and sovereignty and not reviving the old juridical immunities of foreigners in Turkey. Ismet has appealed to Child to

try informally to devise a settlement on those principles, and Child has today arranged to have Curzon meet Ismet in private interview.

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AM[ERICAN] MISSION

767.68119/396 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *February 2, 1923—5 p.m.*
[Received February 2—3:23 p.m.]

232. Curzon has won over the Allies to a resolution to present to the Turks tomorrow morning a categorical demand for acceptance of the treaty, giving them only until Sunday night for a reply. This step is a consequence of the abrupt alteration in the attitude of the French delegation. Apparently the instructions received from Paris have been modified, and probably Poincaré has come to some new arrangement with the British Foreign Office. It is uncertain how the Turks will receive this demand, but we are disposed to concur in Curzon's view that to keep up the informal discussions as arranged for through us yesterday will only tend to encourage the Turks to delay action. . . . We do not now recommend that the Department make any statement, as such a statement might not fit the present circumstances and might afterwards be judged in the light of later developments not yet foreseen.

AM[ERICAN] MISSION

767.68119/398 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *February 4, 1923—11 p.m.*
[Received February 5—4:15 a.m.]

236. The conference dissolved tonight at 8 o'clock after the Turks had presented counterproposals [75] and after a last informal session in which the Allies were fully represented. The rupture was brought about by the position taken by the Turks in rejecting all compromise on rights of special jurisdiction for foreigners and in objecting to provisions for economic concessions, some of which we regard as imprudent or harmful. The whole British delegation departed after Curzon had expressed hearty gratitude to us for our conduct during

[75] For Turkish counterproposals, see Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 837.

proceedings, especially in moments of tension, and for the efforts we had made toward the end to arrange an accommodation with the Turks. A decision to leave immediately is announced by the Italians. We hear that Bompard has been recalled to Paris to discuss the situation with Poincaré and that for the time being the rest of the French delegation will remain in Lausanne. For the present there is little prospect of reassembling the conference. It seems to us that the failure of the conference has been due to lack of unanimity among the Allies, to Curzon's disregard of Turkish nationalism, and to the perseverance . . . of the Turks.

It is impossible to predict with certainty whether peace will be preserved, and whether France will not negotiate on her own account with Turkey.

We think that we should by all means leave immediately, but request immediate instructions committing the decision of this point to our judgment.

AM[ERICAN] MISSION

767.68119/404 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *February 7, 1923—10 a.m.*
[Received 10:45 a.m.]

242. Massigli,[76] acting under instructions from Paris and presumably representing Allied Powers, proposed to Ismet last night that if Turks would state in writing what they were willing to concede on capitulations and on economic clauses, as indicated in their personal conversations with Montagna and others, the Allies were prepared to sign the treaty.

Turkish delegation withdrew and after an hour informed Massigli that Turks had made their reply to the Allies last Sunday; that it was now up to the Allies to inform the Turks in writing of the present Allied point of view; that everybody had run away from Lausanne and that they would go back to Angora and consult with their people.

Ismet stated he was glad conference has not been broken off and that after his journey to Angora he would be glad to resume negotiations if Allies desired.

Ismet departed this morning for Angora via Bucharest and Constanza leaving about half of his delegation who depart tomorrow.

Repeated to Rome and Constantinople.

AM[ERICAN] MISSION

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[76] Secretary general of the Lausanne Conference.

767.68119/406 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *February 7, 1923—6 p.m.*
[Received February 7—4:52 p.m.]

244. On February 4 Ambassador Child wrote to Curzon as follows:

We find that certain provisions in the economic and financial clauses of the draft treaty between the Allies and Turkey[77] are ambiguous and might be interpreted in such a way as to work injustice to various national and private interests. We were not given an adequate opportunity to state our attitude on these provisions prior to their being drafted and incorporated in the proposed treaty. We are somewhat anxious concerning them.

It is our feeling, however, that it would ameliorate the difficulties if an additional clause were placed in the proposed treaty making a blanket provision that all conflicting claims between national or private interests to which the previously mentioned clauses purport to apply, should first be subject to arbitration, as a superior right, so that all may obtain full justice.

I am looking first to you rather than to others to give protection on this important point, and I will appreciate hearing from you that the subject which I have brought to your attention is not unwelcome.

AM[ERICAN] MISSION

767.68119/416 : Telegram

The Minister in Switzerland (Grew) to the Secretary of State

[Paraphrase]

BERNE, *February 8, 1923—3 p.m.*
[Received 8:10 p.m.]

14. Apparently Sunday night when Bompard and Montagna met Ismet they reached an agreement on changes in the Turkish statement on capitulations. It was a purely informal agreement, however, and the British have not given their approval. The two concessions made are as follows:

1. The Turks agreed to Montagna's proposal that judicial advisers to the Ministry of Justice should be chosen from a list of suitable jurists, nationals of states with which Turkey had not been at war. The list should be prepared by the Permanent Court at The Hague. The Turks had proposed that the judicial advisers should be appointed from neutral states.

2. The Turks also agreed to accept, subject to minor technical changes, the Allied proposal that no domiciliary visits or arrests

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[77] For text of draft treaty, see Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 683.

should be made without the approval of the warrant or writ by one of the foreign jurists provided for in the preceding paragraph. The Turks had previously rejected this proposal.

On the Sunday night immediately following the rupture, Ambassador Child, Admiral Bristol, and myself had a conversation with Ismet in which he at last agreed to an additional concession with respect to the judicial regime. This was that if the Allies would suppress the objectionable economic clauses the Turks would agree to admit judicial advisers to the courts of first instance at Adana and Samsoun, as well as at Constantinople and Smyrna. At his request, however, we pledged our word not to reveal to the Allies this concession until we had first obtained theirs. Hoping on the basis of these new developments to retain Curzon, we hurried to the railway station but found that his train had already left.

GREW

767.68119/429 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *February 15, 1923—3 p.m.*
[Received 8:50 p.m.]

41. On February 6 I left Lausanne for Venice. Out of Venice I encountered Ismet Pasha and others of the Turkish delegation on the Orient Express traveling to Bucharest. During a long and candid conversation which I had with Ismet Pasha at his request, he made it clear that: (1) He really wishes to obtain a settlement with Turkey's enemies and will not cease to labor for peace after his return to Angora, but is no less resolute to hold out for terms of the National Pact. (2) He expects to stand by partial settlements to which he consented at conference. (3) Before he quitted Lausanne he had given his assent to the Italian proposal for a compromise regarding the administration of justice in Turkey.[78] (4) Upon the financial and economic stipulations which he has already rejected, he will not yield. (5) It is his opinion that the National Assembly will confirm settlements agreed to in conference and will promptly consent to resume negotiations for settlement of remaining points in dispute. (6) He regards a settlement with all the Allies at once as better than separate agreements. (7) On assumption that conference is only temporarily interrupted he thinks the armistice of Mudania continued to hold good and that its terms will be punctually observed by the

[78] See telegram no. 14, Feb. 8, from the Minister in Switzerland, *supra*.

Turks. (8) He was apparently bewildered by actions of the Allies during closing days at Lausanne, and he finds incomprehensible their failure to notify him before the delegates dispersed whether the conference was definitely terminated or only suspended. More than once he asked me, as if puzzled, why the Allies had demanded immediate signature of a draft treaty containing new provisions if they did not wish to disrupt the conference and renew the war. I expressed to him my conviction that peace was the object of all the delegates.

Ismet enquired whether we would be prepared to take up matter of a treaty with his Government. In reply I said that the United States Government wished to defer negotiations until after a peace settlement between Turkey and the Allies, but that if later on he should ask us to discuss the bases of a treaty, our Government would be informed of the request.

With regard to our interests in Turkey I represented that it would be best meanwhile to preserve the *status quo*. He promised to give my suggestion favorable consideration, as also my request that facilities be given for the American delegate at Angora to communicate freely with the High Commission at Constantinople.

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BRISTOL

767.68119/486

The Vice Consul at Constantinople (Imbrie), Temporarily at Angora, to the Secretary of State

ANGORA, *February 15, 1923.*
[Received March 26.]

SIR: I have the honor to inform the Department that, seemingly, the feeling in Turkey, as a result of the failure of the Lausanne Conference, is one of disappointment, rather than of belligerency. Both among official circles and in the press, as well as with the people, the idea is that the resumption of war should, if possible, be avoided.

It should not be deduced from this that the Turks are prepared to make extensive concessions, for of this there is no evidence. Nor is the desire for peace based on any apprehension that the army is not loyal or to be depended upon. Rather is it due to war-weariness and a desire, nationwide, to devote the country's energies to constructive measures.

This attitude of the Turks has not resulted in any lessening of military preparation. Following the Moudania Conference, the classes between thirty-four and forty-five were demobilized. Three of these classes have recently been recalled to the colors and newly conscripted

recruits are constantly being called up, drilled, armed and equipped. There is a steady movement south, southwest and southeast of troops and munitions. The district eastward and southward from Eskashier has been declared a military zone, closed to foreigners and there is every indication of heavy troop concentration in this region. To the military has been entrusted the control of ingress and egress. While the army is notably deficient in artillery—having probably no more than seven hundred guns of all calibre—possesses inadequate *mitrailleuse* equipment and is almost totally devoid of aeroplane and other technical auxiliary arms, the morale is excellent, the bravery, loyalty and endurance of the men beyond question and, in open warfare it should be able to hold its own against equal forces better equipped. The cavalry is sturdily mounted and exceedingly mobile. In considering the potential strength of the Turkish army, it should be remembered, also, that the men are accustomed to train under the most rigorous conditions and can campaign with much less elaborate supply than that furnished European armies.

Turkey leaves Lausanne with a feeling against England, if possible, more bitter than before, as the Turkish people feel that, primarily, it was the uncompromising attitude of Great Britain which rendered the conference abortive.

Turkey's attitude toward France, due to the vacillating policy of that action and the consequent belief evolving, that she allowed herself to be bribed with English promises, is now one of extreme antipathy. For the moment, at least, France's sun of prestige has suffered eclipse.

The attitude of the United States at Lausanne was, at first, misunderstood by the Turks and aroused ill-feeling and severe criticism. Our representations regarding minorities, regarding the Patriarchate and, especially, regarding the Armenians were greatly resented, the Turks feeling that these matters were no concern of the United States Government and the impression was created and prevailed that our foreign policy, as regards Turkey, if not dictated, was greatly influenced by the churches and missionary element. Our Open Door policy, our moderate attitude toward the subject of capitulations and our stand for the settlement of the Straits Question by treaty, rather than by a Straits Commission, on the other hand, did much to off-set the unpleasant impression earlier created and the close of the Conference unquestionably finds the United States more favored in Turkey than any of the Allied participants, though whether more favored than when she entered the Conference, cannot be so confidently asserted.

I have [etc.] ROBERT W. IMBRIE

767.68119/500a

The Department of State to the British Embassy

MEMORANDUM

On March 17th Mr. Craigie informally called the attention of the Chief of the Division of Near Eastern Affairs to the letter addressed to Lord Curzon by Ambassador Child at Lausanne under date of February 4th [79] regarding the economic and financial clauses of the Lausanne Treaty and suggested that it might serve to avoid misunderstanding if the views expressed in this letter could be elaborated by specific reference to the clauses which might be considered as objectionable or open to an ambiguous interpretation.

As it seems possible that the recent counterproposals of the Angora authorities which have been considered by the Allied Powers in London will result in a renewal of negotiations, the Department may desire to take a later opportunity to submit a more detailed expression of its views. However, without undertaking an exhaustive survey of the economic and financial sections of the Lausanne draft Treaty, it may be stated that the provisions which Ambassador Child had chiefly in mind in his letter of February 4th were such as appeared to have possible bearing upon rights or concessions granted or alleged to have been granted either before the war or more recently by the Turkish authorities at Constantinople or Angora. It was felt that misunderstanding might result if the contracting powers should attempt a settlement by provisions of a treaty of questions of a juridical character which might involve the interests of nationals of the United States and of other countries.

Inasmuch as the exigencies of the situation had been deemed to be such as not to admit of what was considered by the American Mission to be adequate opportunity for the discussion of certain provisions of the character indicated, it was suggested by Ambassador Child that there be inserted in the treaty a blanket provision for the settlement by arbitration of conflicting claims of private and national interests.

The most important of the provisions to which Ambassador Child adverted are contained in Article 94 of the draft treaty. Paragraph 2 of this Article reads as follows:

"All conventions or contracts relating to concessions made between Turkey and Allied subjects, and any agreements and decisions in regard thereto, prior to October 29th, 1914, are also confirmed if they have begun to be put into operation, or have formed the object of agreements between the Ottoman Government and an Allied Govern-

[79] See telegram no. 244, Feb. 7, from the Special Mission at Lausanne, p. 968.

ment, notwithstanding the non-fulfillment by Turkey of all the conditions requisite for their final confirmation."

It is felt that this provision, if incorporated in a treaty between the Allied Powers and the Ottoman Government, might possibly be invoked by interested parties as confirming or validating claims to concessions which had not in fact been granted and finally approved by the Ottoman Government prior to October 29, 1914. This Government considers that it would be unfortunate for the Allied Powers to insist upon the insertion in the treaty of any provision designed to confer upon Allied nationals, with respect to concessions which prior to October 29, 1914, were the subject of conventions, contracts, agreements, or decisions, rights more extensive than those which were acquired under or by virtue of the conventions, contracts, agreements, or decisions in question.

The observations just made are applicable with respect to concessions which, under Article 96 of the draft treaty, might possibly be claimed from the governments of territories detached from Turkey. In this connection, also, it may not be inappropriate to call attention to the provision, in Article 65 of the draft treaty, to the effect that States in whose favor territory is detached from Turkey shall acquire without payment all property and possessions situated therein belonging to or registered in the name of the Ottoman Empire or of the Civil List. It is presumed that any property or possessions acquired by any State through the operation of this Article would be subject to existing legal or equitable rights of interested parties. It is believed, however, that future controversy might be avoided if the language were more explicit.

Another provision of the draft treaty apparently susceptible of an interpretation which would be objectionable, and which is believed not to have been intended, is contained in Article 97, which reads as follows:

"The Allied Powers shall not be bound to recognize in territory detached from Turkey the validity of the grant or transfer of any concession by the Ottoman Government or by local Ottoman authorities, effected after October 29th, 1914".

This Government could not admit the impairment, through the operation of this Article, of any rights acquired by American nationals in good faith and upon compliance with the applicable laws.

The annulment under Article 98 of concessions granted to German, Austrian, Hungarian, or Bulgarian nationals or companies in which the interests of such nationals are preponderant cannot, it is presumed, be intended to deprive American citizens of rights which may have been acquired by them in good faith in such concessions.

Article 115 provides that

"No disposition of the treaties, conventions or agreements concluded by Turkey with any Power whatsoever may be held to run counter to the present Treaty. Turkey further undertakes to denounce any disposition irreconcilable with the present Treaty".

The provision of this Article is somewhat sweeping. Presumably it is not intended to comprehend any existing agreement between the United States and Turkey nor can it directly affect the legal status of any existing treaty rights of this Government.

As has been indicated in the opening paragraph of this Memorandum, no attempt has been made, in presenting these observations, to comment in detail on the two sections of the Lausanne draft treaty, namely the Economic and Financial Clauses, which have been taken under consideration.

WASHINGTON, *March 31, 1923.*

Second Phase

767.68119/537

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Secretary of State

[WASHINGTON,] *April 4, 1923.*

THE SECRETARY: In view of the prospect that the Lausanne Conference will be resumed shortly, the following considerations in regard to American representation and the character of American participation may be pertinent:

(1) It is the Department's understanding that the inviting Powers as well as the Turks have taken the position that the Lausanne Conference was not formally terminated in February last but temporarily adjourned. It is therefore possible that the Allies will consider that no new invitations are necessary and that the Powers participating in the Conference during its early stages will automatically attend upon the resumption of negotiations. The Secretariat General of the Conference might naturally be expected, however, to notify the interested Powers, including the United States, of the date and place of the resumption of the Conference. In this connection it should be noted that according to the Department's information there have been representatives of the Secretariat General and of the Italian and Turkish delegations at Lausanne during the period of the Conference's interruption.

As yet this Government has received no notification of a resumption of the Conference but as it is possible that the Allied Powers

have not yet received or acted upon the Turkish reply, it is yet too early to state that they do not intend to send us a notification.

(2) A brief review of the events which have taken place subsequent to the interruption of the Conference on February 4th may be helpful.

On February 4th Lord Curzon (President of the Conference), left Lausanne with his entire delegation and shortly thereafter the other plenipotentiaries, including the American representatives.

Under date of March 8th the Minister for Foreign Affairs of the Angora Government addressed to the inviting Powers a note containing their observations on the Lausanne draft treaty. A copy of this document was handed to Admiral Bristol in Constantinople on or about March 12th.[80] (This document is now in the possession of the Department and is being studied. Further reference to it will be made below).

On March 17th Ambassador Child telegraphed [80] that Curzon had asked for an Allied Conference in London for three purposes: (1) Examine Turkish answer, (2) Decide on course, (3) Determine another meeting place. In this telegram Ambassador Child confidentially called the attention of the Department to the possibility that the London meeting might "develop certain trades and agreements between Allies which might prejudice our interests."

On or about March 19th the Allied Conference met in London to consider the Turkish proposals. In addition to the three inviting Powers it is understood that the Japanese representative was present and later Venizelos is understood to have been called in to present the Greek views on the Turkish-Greek reparation question.

On March 19th the Department telegraphed the Embassy at London [80] instructing Ambassador Harvey to inform the Foreign Office "that in view of American interest in many of the matters which may be discussed in considering the Turkish reply" he would "appreciate being apprized of the course of discussions at the forthcoming conference." Ambassador Harvey was also informed of Ambassador Child's view regarding the possibility of side agreements being reached at the London meeting.

On March 22nd Ambassador Harvey telegraphed [80] that the Foreign Office had volunteered the statement that the proceedings of the conference would consist very largely of technical discussions of experts. On the succeeding days Ambassador Harvey continued to telegraph brief summaries [80] of such information as he could obtain regarding the meeting.

On March 26th Ambassador Herrick telegraphed [80] that "the Allies are now hopeful of agreement as to the reply which shall be made to the Turkish counter proposals", and added that "no details were fur-

[80] Not printed.

nished by the Foreign Office" but that he (Herrick) had been "promised all the information available upon the return of the French delegates which is expected to take place on Wednesday." In outlining the proposed procedure, Ambassador Herrick indicated that the Allies would suggest a conference be called of the experts only, who will settle the details of the points in dispute, after which the plenipotentiaries would meet definitely to conclude a Treaty.

On March 27th Ambassador Harvey telegraphed [82] that the Conference expected to terminate shortly and that a reply to the Turkish proposal had been drafted. He outlined the nature of the reply and indicated that there were certain differences of opinion between the French and Italians, particularly in regard to the treatment of the economic clauses which the French have proposed should be a matter for private negotiation between Angora and the *concessionnaire* companies, to which the British had agreed, but the Italians opposed on the ground that it would give France, in view of the conditions of the loan to Turkey in 1913–1914 and to the Treaty of Angora and annexes, a control for an indefinite period of most of the economic resources of Turkey.

On March 29th Ambassador Herrick telegraphed [82] that he had endeavored to obtain from the French Foreign Office a copy of the proposed Allied reply to the Turkish counter-proposals but was advised that it could not be made public at the moment as it had to be submitted to the Italian Government for approval before it could be sent to Angora. In reply,[82] the Department instructed Ambassador Herrick to inform the Department in case he encountered any further difficulty in securing a text of Allied reply, to which the Ambassador replied, under date of March 31st,[82] that he "had again approached the French Foreign Office asking for a copy of the Allied reply to the Turks" and added "Massigli informs me he asked permission to give me a copy and was told it was impossible. He further stated text would probably be given out in Constantinople Tuesday or Wednesday of next week". (Massigli is a Quai d'Orsay functionary who was Secretary General of the Lausanne Conference).

On March 31st the Department telegraphed the Embassy in London,[82] referred to difficulties experienced in obtaining a copy of the Allied reply, and added "in view of American participation at Lausanne, Department hardly believes that Allied Governments would desire to take the position that this Government could only be informed of Allied decisions if and when it was decided to make them public." To this Ambassador Harvey replied [82] that the efforts of the Embassy to secure the text of the Allied reply were met with the state-

[82] Not printed.

ment that it had been agreed between the Allies that the text should be approved by all the governments represented at the Conference before being given out.

The full text of the Allied reply was given to the Press in London on April 2nd. As yet the Department has only the Associated Press summary from which to judge of its contents.

According to press reports, this reply has already been handed to the Turks, who are understood to have replied accepting the proposal for the resumption of the Conference at Lausanne on April 15th. A telegram from Paris [83] indicates the date might be April 12th, and this same telegram reports that the representation of the various countries will probably be as follows:

Great Britain: Rumbold, Fountain, Payne, and Forbes Adam.
Italians: Montagna, Nogara, and Arlotta.
French: Bompard, or Laroche,

Secretary General, Massigli.

If this report is accurate, no one of the Allied Powers will be represented, when the Conference resumes at Lausanne, by their principal delegate at the first meeting.

On March 31st, in reply to an informal inquiry of the British Embassy, the Department addressed a memorandum to that Embassy [84] outlining in some detail certain possible objectionable features of the Economic and Financial clauses of the Lausanne Treaty to which Ambassador Child had adverted in a letter of February 4th to Lord Curzon.[85]

(3) From the above outline of events, it appears that subsequent to the interruption of the Lausanne Conference the Allied representatives had not fully taken this Government into its [*their*] confidence or showed an inclination to welcome counsel or participation by this Government in their deliberations. The Department, on the other hand, sufficiently indicated its interest in these discussions to have given the Allies an opportunity to consult with this Government should they have desired to do so. The explanation of this is probably to be found in the fear, particularly of the French, that our economic interests in Turkey will conflict with their own and to their desire to consolidate their economic position as far as possible without giving this Government information as to their plans. Press reports indicate that the French are apprehensive in regard to the negotiations for the Chester concession which would apparently conflict with certain claims which the French advance under negotiations of 1913–

[83] Not printed.
[84] *Ante*, p. 972.
[85] See telegram no. 244, Feb. 7, from the Special Mission at Lausanne, p. 968.

1914 and under the Franklin–Boullion Agreement with Turkey of October 1921.

I cannot escape the impression that the Allied Powers are loath to abandon their projects which date back as far as 1916 in the Sykes-Picot Agreement and which were carried on under the Tripartite Agreement of 1920. Under these various arrangements France endeavored to consolidate a position of economic predominance in Northern and Eastern Anatolia, Italy in Southwestern Anatolia, and England to secure a free hand in Mesopotamia, together with a predominant position in Constantinople and the Straits. It is not to be overlooked that it is quite possible that some side agreement of this nature has been reached at London and that the formal and public reply of the Allies to the Turks will not tell the whole story of their London decisions. Ambassador Child's telegram of April 2,[86] received while this memorandum was being drafted, indicates that the Ambassador has received a somewhat similar impression.

In the light of the situation described above, it is suggested that it would be well to consider addressing a note to the Allied Powers before the Lausanne Conference reconvenes, to inquire whether any further arrangements, agreements or understandings between the Allies had been reached than are outlined in the published reply to the Turkish note. The inadequate information received regarding the London Conference would furnish a natural basis for such an inquiry and might help to clear the air. At the same time it might be desirable to outline to the French and Italians, the Department's views regarding concessions as already indicated to the British Embassy in the note of March 31st.

(4) Assuming that the United States will be represented at the Lausanne Conference if it reconvenes, it is important to decide, as promptly as possible, what instructions should be prepared for our representatives. In considering this point it may be helpful to review briefly the exact status of the negotiations between the Allies and the Turks.

Certain of the questions in which this Government expressed an interest at the time of the original Conference have now been settled, or at least will not be a subject of further negotiation at Lausanne. The most important of these subjects are: (1) Freedom of the Straits; (2) Protection of Minorities. On both of these points the Turks have accepted, without modification, the proposals contained in the Lausanne Treaty. It is further understood that a substantial agreement has been reached in regard to the terms of the Turkish declaration as to the judicial safeguards for foreigners through the employ by Turkey of foreign judicial advisers.

[86] Not printed.

The most important questions left for reconsideration at Lausanne will be the Economic and Financial clauses and the annexes to the Lausanne Treaty which relate (1) to the regime applicable to foreigners in Turkey and (2) to the commercial regime in Turkey.

As regards the Economic and Financial clauses, our interests are negative rather than positive; that is, we desire to prevent the incorporation by the Allies of provisions which would be detrimental to American interests,—which would constitute a recognition of incomplete rights claimed by the Allies or which would result in the establishment, directly or indirectly, of zones of influence or particular privilege in favor of any of the participating Powers. As far as this Government is concerned, any general provision which would carry with it the respect for vested rights and provide for an impartial arbitration of disputed questions relating to such rights would presumably be satisfactory.

As regards the two Conventions annexed to the Lausanne Treaty, mentioned above, our interests are more immediate, as the provisions of these Conventions will define the rights to be enjoyed by foreigners in Turkey after the abrogation of the capitulations. It is not likely that the Allies, in negotiating regarding these Conventions, will be in a position to take any action harmful to our interests. The question is rather whether, by actual participation with the Allies in the formulation of the Conventions we might not help to secure more favorable provisions than if the Allies were left to negotiate alone. I feel that our participation in drafting these Conventions would be helpful and that it is reasonable for us to share in working out provisions of which we may desire to take advantage in the future. It is important to reach a decision on this point, as the decision will influence the instructions which we might send to our delegates.

(With this memorandum I am attaching the British Blue Book regarding the Lausanne negotiations,[87] where the Conventions are to be found on pages 790 and 840 [*804*], respectively. There is also attached the text of the Turkish reply [88] on the Lausanne Treaty, which contains suggestions which vitally alter and take most of the punch out of the Conventions in question).

(5) The question of American representation at Lausanne should also be given early consideration. Since, as indicated above, the Allied Powers will probably not be represented by their first delegates at the previous meeting, it might be inappropriate for Ambassador Child to attend the Lausanne Conference, at least in its early stages. Various reports indicate that the first part of the Conference will be

[87] Great Britain, Cmd. 1814, Turkey No. 1 (1923).
[88] *Ibid.*, pp. 837 ff.

largely a technical discussion among experts.* If so, Ambassador Child might be held in reserve until or in the event that questions of general policy are discussed. In this case it seems clear that Mr. Grew is the man who is indicated to head the American delegation and, as he will need some assistance to enable the Department to have a representative at the various commissions and sub-commissions which may be formed, it would seem desirable that Belin, who acted as Secretary General of our delegation at Lausanne, should be sent from Paris, and, in addition, I would suggest that Mr. Dolbeare, of the London Embassy, or Shaw from Constantinople, be included in the American delegation. Both of these men are particularly suited for the task because of their personal experience with Near East conditions and questions.

I have not attempted to discuss in this memorandum the action which might be desirable in the event that the Allied Powers should desire to exclude American representation from the so-called technical or preliminary discussions with the Turks of the Lausanne draft treaty.

A[LLEN] W. D[ULLES]

767.68119/508 : Telegram

The Secretary of State to the Minister in Switzerland (Grew)

[Paraphrase]

WASHINGTON, *April 7, 1923—4 p.m.*

18. You may reserve lodgings at Lausanne provisionally if you think it may be difficult to obtain suitable quarters later on. But since it is still uncertain how far we shall be represented at Lausanne, the Department hopes that the arrangements you may make will not attract attention. The inviting powers have not yet notified the Department that the conference is to be reconvened, and present indications are that some of the powers may be inclined to have

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*Mr. Dwight has told me that when the Allies desired to limit the participation in the discussion of certain questions to the Allied representatives, the approved method was to arrange meetings of technical experts or of the inviting powers. This method was used to exclude the Russians from certain of the discussions relating to the Straits—and may be attempted at the next Lausanne meeting to keep "within the Allied family" the consideration of the financial and economic clauses of the Treaty. Another possible method of securing the maximum of secrecy in dealing with these questions is that indicated in the concluding paragraph of a telegram just received from Paris:

"Tomorrow the principal representatives of French finance industry and commerce in Turkey will meet to designate their representatives who in accordance with the allies reply to the Turkish counterproposals will negotiate directly with the Turkish Government as regards their concessions and affairs in Turkey in the hope of being able to eliminate from the peace treaty some of the clauses concerning economic matters." [Footnote on original.]

attendance at preparatory deliberations of experts restricted to Turkish and Allied delegations.

It is the wish of the Department, however, to have you in Lausanne when the conference resumes its sessions, and as early as possible you will receive more precise instructions. Instructions are going forward to Dolbeare in London [89] and to Belin in Paris [90] to be ready to proceed to Lausanne. Inform Department by cable what clerical force you will have at your disposal.

The Secretary is sending the following telegram to Child:

"In present state of affairs and in consideration of information received that the chiefs of the earlier Allied delegations will not be present at resumption of the conference, it does not seem desirable that you return to Lausanne. It will be impossible to determine on a course until we have more precise information, but the Department wishes to have you available for attendance at the conference, as your presence in Lausanne may be required later. It seems important that when the experts enter upon an examination of the treaty the Department be kept informed of the deliberations. It has been decided that in any case Grew should be present for the resumption of the conference and that he should be accompanied by a suitable body of assistants. The Department will notify you at once of any further decisions."

HUGHES

767.68119/548 : Telegram

The Secretary of State to the Minister in Switzerland (Grew)

[Paraphrase]

WASHINGTON, *April 19, 1923—6 p.m.*

28. 1. On April 13 the Department sent a telegram to the Embassy at Paris [91] authorizing Belin, as secretary general of the special mission, to address a letter to Massigli, secretary general of the conference, requesting to be informed of the date on which the conference would resume its labors and stating that the sessions would be attended by a delegation from the United States Government. On April 17 the Embassy at Paris reported to the Department [91] that Belin had been officially informed by Massigli that the conference would reconvene on April 23, and was asked to notify his Government accordingly. You are desired, therefore, in accordance with Department's instructions of April 7, to proceed to Lausanne to be present at the reopening of the Conference on Near Eastern Affairs.

[89] Frederic R. Dolbeare, first secretary of Embassy.
[90] Ferdinand L. Belin, second secretary of Embassy.
[91] Not printed.

2. It is expected that the status and functions of the American delegation will remain the same as before adjournment, on the assumption that the conference was only suspended.

3. The instructions of November 17 to the American delegation,[92] which were later supplemented as occasion required, contain an express statement of the policy of this Government in sending a delegation to the conference.

4. Owing to an apparent misinterpretation of the term "observer", the conditions and objects of our representation at the conference seem to have been misunderstood, more often in the United States perhaps than elsewhere. It should not be a matter of doubt that the American delegates are commissioned to voice the opinions and wishes of this Government, and that they have had at all times the fullest authority to represent the United States at the conference. It has been necessary, however, to determine upon the exact share we should take in the deliberation of a conference, which had as its chief business to arrange with Turkey the terms of peace. It did not seem fitting that the United States should enter the conference with the same status as the belligerents, since this country was not at war with Turkey. But the American representatives have always taken, and it is expected that they will hereafter take, an official and appropriate part in the deliberations whenever issues are raised in which this Government is as much concerned as are the other powers.

4. [*sic*] Before taking up your duties at the conference you should refer again to the instructions of November 17 and other telegraphic advices from the Department. It is possible that some of the questions noted in the Department's *aide-mémoire* of October 22 [*30?*],[93] as of special interest to the United States, will not come up for discussion in the conference since they have been disposed of by separate negotiation. Protection of minorities and regulation of the Straits are two of the issues thus settled.

5. If you should be asked to state whether this Government would accept an invitation to accede to the draft convention on the Straits, you should refrain from giving any pledges and should consult the Department.

6. Although the protection of minorities has been partially provided for, nevertheless the Department will have occasion to instruct you further upon some aspects of the subject, and particularly upon the problem of refugees. You should consult note of March 31 from

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[92] Not printed. The instructions transmitted the complete texts or substance of previous documents, including the *aide-mémoire* of Oct. 30, 1922, contained in telegram no. 344, Oct. 27, 1922, to the Ambassador in France, p. 884; telegram no. 345, Oct. 27, to the Ambassador in France, p. 886; identic notes from the British, French, and Italian Embassies of Oct. 27, p. 889; and telegram no. 175, Nov. 15, to the Ambassador in Italy, p. 898.

[93] See telegram no. 344, Oct. 27, 1922, to the Ambassador in France, p. 884.

Department to Embassies of the inviting powers.[94] Replies from the Italians and the French have not yet been received.

7. The Department is not convinced that anything is to be gained by bringing before the conference the subject of the privilege to excavate ancient sites in Turkey, which was touched upon under the 7th head of Department's *aide-mémoire* of October 30.

8. The Department believes that there will be no reason to discuss in the conference the question of American claims against Turkey for property losses suffered through unlawful acts during the war, as it should be possible to adjust these claims by direct settlement with Turkey during the course of our negotiation for a treaty. The Department leaves to your discretion the discussion of this question with the Turks and will communicate to you such further instructions as may be required.

9. Points 4 to 7 of the *aide-mémoire* having been thus disposed of, there remain to be considered the first three points, dealing with judicial safeguards, with the protection of philanthropic and commercial enterprises, and with devising a system to replace the capitulations.

10. The draft treaty of Lausanne and the conventions accompanying it contain provisions relating to these points. In considering clauses 71 to 117 of the treaty and the economic settlements found there, you are referred to the Department's communication to the British Embassy,[95] copies of which were forwarded to Lausanne and Paris on April 6. The attention of this Government has also been drawn to that portion of the reply to the Turkish counterproposals which states that in the hope of hastening a settlement of the economic issues the Allies have encouraged those of their nationals having interests in Turkey to deal directly with the competent officials at Angora in an effort to give practical effect to the principles embodied in the draft treaty.

Unless they seek to profit by circumstances in such a manner as to have themselves admitted to a favored position or to win special advantages under color of defending vested interests, there should be no objection to the action of the Allied Powers in attempting to bring about direct settlements between their own nationals and the Turks upon matters of contract or title recognized in fact before the war. The sanctity of established rights will presumably be defended by the Allied nationals in dealing with the Turkish Government, and the Government of the United States will also support that principle when acting on behalf of its own citizens. You are authorized to make use of the substance of the Department's communication to the

[94] *Ante*, p. 329.
[95] *Ante*, p. 972.

British Embassy if you should be called upon at any time to comment upon the economic and financial provisions of the treaty. In case you feel yourself not sufficiently informed on points which arise you should telegraph for additional instructions. The Department will be interested to receive any information which may come to you regarding the course of the negotiations between representatives of the Allied concessionaires and the Angora authorities. You should also inform the Department whether in view of these private negotiations the conference will abstain from discussing the economic clauses. In the course of the direct negotiations it is possible an attempt will be made to obtain recognition of rights not fully validated before the war or of claims under contracts which had never passed beyond the preliminary stage of negotiation. The memorandum to the British Embassy and also the Department's telegram 79 of January 8 [96] contain brief expositions of this Government's attitude on this point.

11. The United States Government naturally takes a deep interest in the two formal agreements which accompany the treaty and which deal with the status of foreigners and the judicial safeguards in Turkey, and with the commercial regime. The position of foreigners in Turkey will be largely determined by these agreements after the capitulations are abolished. The rights of the United States have rested upon the capitulations. If, therefore, these rights are to be withdrawn, this Government seeks some other basis for the resumption of diplomatic relations with Turkey and is disposed, accordingly, to join in discussing the convention and to take its proper share in deliberating upon arrangements for safeguarding important foreign interests in Turkish territory. This Government is particularly interested in preserving for the benefit of American philanthropic enterprises in Turkey such stipulations as are contained in article 15.

The Department regards the two draft conventions as on the whole acceptable, and unless they should be altered to our prejudice during the present negotiations the Department is prepared to conclude identic agreements with the Turks in anticipation of a separate general treaty, or to adhere to the Allied treaty, if that course should seem preferable. Authorization to sign will be sent you by cable in either case.

It is the desire of the Department, as you will readily understand, not to be left in a position which might prove hurtful to our interests, as, for instance, if this Government should remain passive while the other powers assented to the abolition of the capitulations and protected themselves by special agreements, and should itself take no

[96] Not printed.

measures to define its own relations with Turkey or to accommodate itself to the altered circumstances growing out of the action of the other powers. Your principal concern should be to avoid these embarrassing consequences by participating with the Allies in their deliberations on the two conventions and on the form of the Turkish declaration regulating the administration of justice in Turkey. Should unforeseen circumstances prevent you from taking this course, and should you be obliged to deal independently with the Turks, you will receive additional instructions from the Department. Even if we should sign the conventions in common with the other powers, there will still be some questions not covered by the conventions which we would probably have to settle by a separate treaty with the Turks.

The Department has considered the suggestion contained in the Turkish counterproposals, that there should be inserted in the conventions a provision, suitably phrased, so that any privileges enjoyed by foreigners in Turkey are to be conceded also to Turkish nationals residing in foreign territory. The Department is prepared to study carefully this proposal, and is of opinion that it will be possible for the United States to concede reciprocal privileges to Turkey.

Owing to the diversity of state legislation, however, it may be difficult for the United States to grant national treatment to Turks in this country. On this aspect of the problem you should consult the legal experts on your staff.

12. Inasmuch as in their recent rejoinder the Turks have not specifically rejected the principle of employing foreign judges as advisers, the Department considers that it will be possible to discover grounds for a settlement. The Department would prefer, if possible, not to close the way to the appointment of an American adviser in Turkey. Americans would become ineligible, of course, if the choice should be restricted to judges from those countries which were not involved in the late world conflict. If the Allies consent to such a restriction, however, the Department does not desire you to press its views in the matter.

13. The course of events has not required any important alteration in the position of this Government, as expressed in the statement of Ambassador Child to the conference on January 31, and in later statements by the American delegation. You should not fail to use your best endeavors, as far as is proper, to facilitate the conclusion of peace, and it is the hope of the Department that you may find opportunities to that end. As concerns a treaty between the United States and Turkey, the policy of the Department will be guided by the information received from you, and it is not possible to supply

you with more precise instructions until the Department is further enlightened upon the organization and agenda of the conference.

14. When the conference opens it may be needful for you to summarize briefly the position of the United States, and you are authorized to refer discreetly to the views of the Department, as outlined in this telegram, insofar as they are not confidential.

15. You will receive as you may require more specific instructions on particular questions. Since the primary purpose of the conference is to conclude peace and to discover a satisfactory substitute for the capitulatory regime, it is improbable that the Chester concession [97] will be discussed. But if you think that some statement should be made to prevent future misunderstanding, you may make a guarded use of information already sent you in separate telegrams from the Department.

16. Telegraph the Department at once if any part of the foregoing is not entirely clear or if you will require more detailed advices.

HUGHES

767.68119/547 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *April 19, 1923—1 p.m.*

[Received 7:28 p.m.]

117. Department's 49 of March 23,[98] paragraph 8. I talked with Ismet Pasha yesterday before he left Constantinople to attend the conference. He stated that the Montagna formula,[99] if agreed upon at Lausanne, will require the Turkish Government to select its judicial advisers from among nationals of powers which had not participated in late war, and that jurists from Allied and Associated Powers, as also from Central Powers, would be disqualified by this rule.

Opposition by the French to the Chester concession and particularly their view of it as a political issue drew from Ismet some expressions of disapproval. He maintained that it is a question which should be left to the Turkish courts, as being susceptible of legal decision. And he stated that he intended to refrain from any discussion of it at the conference.

Ismet said that the concessionary companies had been invited to name representatives to negotiate their claims separately with the

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[97] *Post*, pp. 1198 ff.
[98] Not printed.
[99] *Post*, p. 995.

proper authorities at Angora; but that the Turks did not have in mind a general conference with these representatives. As the questions to be considered were very much involved Ismet did not regard a general conference as either practicable or desirable. He said that in Angora they do not look upon the revision of concessionary contracts as a business to be dealt with politically or diplomatically, as it is a domestic concern.

Ismet is very much puzzled by the way the Lausanne Conference is being resumed. He finds it incomprehensible that so few delegates are accredited, and he questions whether Allies are sincere in desire for peace.

BRISTOL

767.68119/550 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 22, 1923—midnight.*
[Received April 23—3 : 13 a. m.]

249. Most of what Ismet Pasha said to the American High Commissioner in Constantinople [1] he reiterated today, in a short conversation, referring again to his distrust of the pacific intentions of the European powers, to the Chester concession, and to the direct negotiations of the concessionaires at Angora.

Ismet exhibits a strong desire to enter at once upon negotiations looking toward a treaty with the United States. He argues that an early settlement with the Allies would be promoted by a prior agreement with us. He regards the Chester concession as the initiation of economic relations with the United States which he hopes will become more intimate. His idea is to restore diplomatic and consular relations under a treaty of friendship and commerce, which could be supplemented by declaratory pledges from the Turkish Government offering protection of American missions and schools in accordance with Turkish law and guaranteeing fair treatment of Americans in trade and in the courts.

As soon as the situation clears I shall advise the Department in regard to paragraphs 10 and 11 of its instructions in telegram 28 of April 19, which has just been decoded at Berne. I infer from paragraph 12 that if no more satisfactory arrangements can be made the Department will assent to the Montagna formula.

GREW

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[1] See *supra*.

767.68119/553 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *April 23, 1923—6 p.m.*
[Received April 24—1 a.m.]

251. An informal meeting of all the delegations was held this afternoon. Rumbold presided, and after expressing thanks for Swiss hospitality he said he hoped that the efforts of the renewed conference would result in the early reestablishment of peace in the Orient.

Rumbold stated that it had been agreed that the work of the conference would be apportioned among three committees. He would preside over the first which would take into consideration the articles of the treaty having no [*to do with*] territorial and military matters, including the judicial capitulations, insofar as these questions had not yet been settled. The second committee which Pellé would preside over would discuss the unfinished financial article of the treaty and the third committee presided over by Montagna would take up economic questions. These committees will all begin work immediately but not concurrently. Pellé, Montagna, Otchiai and Ismet made statements [of] the same general tenor expressing hope for the early reestablishment of peace.

Grew made the following statement:

"I need hardly say gentlemen how heartily the United States welcomes the continuation of this conference. It reconvenes on a substantial basis, the basis of definite understandings already reached on a variety of important subjects, as a result of patient and constructive work, and upon this firm foundation we fully expect soon to see erected the edifice for which the world is waiting with eagerness, a just and stable peace. For Switzerland's hospitality in this great task we are extremely grateful.

Permit me to speak very briefly of the position of the American representation at these resumed negotiations. We are here for the same purpose and in the same capacity as before the adjournment, participating not on the footing of a belligerent against Turkey nor that [*sic*] as a party to the treaty of peace under negotiation between the Allied Powers and Turkey, but none the less in a fully representative capacity and with full authorization and competence to speak on behalf of the Government of the United States. In the ensuing deliberations we wish to see safeguarded the legitimate national interests [of] the United States, the principle of commercial opportunity for all nations, and the humanitarian considerations upon which our views have been expressed. Should other issues arise or should amplification of these declarations prove desirable we shall avail ourselves of the privileges of further statement or comment.

So far as it may be within our proper functions and to the extent of our power we wish to assist in serving the cause of peace."

GREW

767.68119 E/1 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 23, 1923—11 p.m.*
[Received April 24—1:10 a.m.]

252. Our telegram 251 of April 23. It is greatly to our advantage as well as to that of the conference that Montagna has been chosen chairman of the economic committee. I think he will be helpful to American interests and his ability in negotiating should go far toward solving the most difficult problems confronting the conference. He wished to be chairman of the first committee, that on judicial questions. He is an expert in that field but he was refused the chairmanship of the committee.

Montagna failed in his advocacy of several small committees, as Rumbold, supported by Pellé, insisted on three large committees. Fortunately, however, Montagna defeated the attempt of Rumbold to reopen the conference according to the former steam-roller methods used by Curzon and succeeded in securing an invitation for Ismet to take part in the preliminary informal discussion with respect to organization. In this way any opposition at the beginning has been avoided.

GREW

767.68119/560 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 27, 1923—5 p.m.*
[Received April 28—2:39 a.m.]

263. Below is the substance of a long interview which I had with Ismet Pasha last night by appointment.

(1) Ismet exhibited a good deal of anxiety over the question of reparations, and was apprehensive lest the Allied Powers should bring the subject up again in discussing the financial provisions of the treaty, although article 79[2] of the economic section had been dropped. He said he would be obliged to quit Lausanne if the issue should be revived, as he can concede nothing and had returned to Lausanne under the firm impression that there would be no further discussion of the point. It was plain that he wished me to make his position known to the European delegates.

(2) He inquired urgently whether I had not yet received positive instructions regarding a treaty between the United States and Tur-

[2] Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 724.

key, for which he wishes to begin negotiating at once. I replied that, as I had stated at our earlier interview (my 249 of April 22), the Government of the United States awaited with expectancy the opportune moment for making a treaty with Turkey, but that I could not yet suggest a time for beginning negotiations as that was contingent upon a number of other matters.

(3) I intimated to Ismet that whenever we should begin to discuss with him the terms of a treaty, we should have the very difficult problem of the capitulations to consider. I reminded him that our Government had not at any time admitted the validity of a one-sided abolition of the capitulatory regime. A revision of ancient treaties, whenever practicable, had been acknowledged in principle in our treaty of 1874 with Turkey.[3] Revision was still viewed sympathetically by our Government, but it would entail of necessity some appropriate arrangement, however temporary, as a substitute for the capitulatory regime. I dwelt on this point for some time, and emphasized particularly the protection of our philanthropic enterprises, the judicial guarantees, an improved administration of prisons, the obligation to cultivate the trust and good opinion of American commercial interests, and so forth. I indicated plainly that these were all matters of the gravest concern to us, and I told Ismet that in the conference we should, if called upon, support our position. In referring to the administration of justice in Turkey, Ismet stated that the Montagna formula had been assented to on both sides, and that it constituted a final and acceptable arrangement in the matter of the administration of justice. Ismet enquired whether we expected to depart from the friendly attitude taken by the American delegation before the conference adjourned, to which I replied that the Government of the United States had not altered its views in any respect since Ismet's earlier interviews with Child, but that not all difficulties could be met by the Montagna formula. Ismet referred to Turkish national sentiment and said that the National Assembly would not compromise in the matter of Turkey's right of unlimited control in its own affairs, and that the Assembly had expressly instructed him to be particularly vigilant in defending that right. I said that the United States looked with the greatest good will upon Turkey's nationalist hopes, that the interests of the two countries were not divergent, and that Turkey could count upon the justice of our intentions; but that American as well as Turkish sentiment must be respected and that if we were to resume our usual good relations with Turkey we required due pledges for the safety of our interests.

(4) I asked Ismet whether he believed that under the Montagna formula Turkey would be precluded from appointing any judicial advisers besides those specifically provided for. He said that although an American adviser would be acceptable and would no doubt confine himself to judicial duties, yet if Turkey should agree to appoint one, the Allies, and Russia as well, would claim general powers for their own advisers who would then certainly intervene in political affairs. Turkey would not permit meddling.

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[3] Malloy, *Treaties*, 1776–1909, vol. II, p. 1344.

(5) Ismet inquired whether I had discussed the Chester concession with Pellé, the French delegate. I replied that I had talked casually to Pellé on general topics, but that until the Department had thoroughly examined the definitive text of the concession I could not express any positive opinions. I could say, however, that we would certainly adhere to our habitual policy of claiming equal commercial privileges for our nationals and of defending their lawful interests. In reply Ismet said that, while he did not anticipate that the French would bring the matter before the conference, he would refuse in any case to engage in a discussion of what is solely the concern of his Government and the concessionaires, and that he trusted we would adopt the same course. He stated that the French claims regarding the Samsun-Sivas line had no foundation in law, and that there was no warrant for the newspaper announcement that the Turkish Government had in mind new grants to the French to make good their loss of the Samsun-Sivas concession.

Reverting to my statements on the capitulations Ismet said he trusted that at the conference we would not refuse to relax our views as I had represented them. He said that the Chester concession would be looked upon with a cold eye at Angora if they should learn of the American attitude toward the capitulations. I replied that we need not borrow trouble, that in view of the earnest good will which united us we should have no difficulty in arriving at a settlement agreeable to both sides, and that I should count myself fortunate if I could also be of service in reconciling Turkey and the Allies. The conversation was entirely friendly, and Ismet closed it with some compliments upon our President.

The American delegation is of opinion that our attitude at the conference should be:

1. That our representations should be few and concise, since we have already defined our attitude on all principal questions and since we do not wish to detract from the weight of the statements we may be moved to make later for the good of all concerned. Elaborate arguments under present circumstances would serve only to arouse the hostility of the Turks and generally would not promote peace. We think that whenever questions are raised which touch the interests of the United States it would be unnecessary to go beyond a reference to Child's earlier statements while reserving the right to be heard later.

2. That we can be of greatest service through private interviews such as we are already having with the delegations of both sides.

3. That it will probably be useful during our informal talks to create the impression that we will not yield on the capitulations, as I did last night with Ismet; and to convince the Turks that they can not use the Chester concession for bargaining with us.

4. That the Chester concession will not be unfavorably affected by adopting this course, although it will not prevent Ismet from trying to use the concession as a means of barter.

GREW

767.68119P/6 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *April 27, 1923—7 p.m.*
[Received April 28—12:25 a.m.]

265. Discussion of article 26 this afternoon evoked statement from British delegation that Allies could not subscribe to assertion that capitulatory regime was abolished by unilateral act of Turks in view of neutral rights under capitulations and rights of powers who had observers only. Ismet stated that state of war had invalidated treaties so far as belligerents were concerned. At this juncture, believing that it was appropriate opportunity to define our legal position and incidentally to advance an interest which we have in common with the Allies, I made the following statement:

"The subject under discussion is one of particular interest to the United States.

As indicated by Mr. Child in statements made at this conference on December 2 [4] and December 28 [5] last, my Government is firmly of the opinion that the rights assured to American citizens and other foreigners by virtue of treaties could not lawfully be terminated by the act of one of the parties to those treaties. My Government has more than once expressed its willingness to consider, at an appropriate time, the revision of its existing treaties with Turkey. It has at no time, however, acquiesced in the view that the unilateral declaration of the Sublime Porte in 1914 has or could lawfully have the effect of terminating any of the rights assured to foreigners under such treaties."

GREW

767.68119/561 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 27, 1923—midnight.*
[Received April 28—3:02 a.m.]

267. In obedience to the wishes of the British Foreign Office, Rumbold read to me tonight a portion of his instructions to the effect that the British Government, desiring a cordial association between the British and American delegations at Lausanne, would be pleased to have them exchange views during the negotiations.

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[4] In telegram no. 53, Dec. 3, 1922, from the Special Mission at Lausanne (not printed), there is reported a brief statement by Mr. Child, to the effect that the United States associated itself with the Allies on the question of capitulations, but that both sides had a common interest in the satisfactory solution of the problem.

[5] See telegram no. 157, Dec. 28, 1922, from the Special Mission at Lausanne, p. 936.

These advances seem to be the fortunate consequence of my earlier interview with the British delegate on April 23. On that occasion I made some allusion to the possibility that we could associate ourselves with the Allies in negotiating the two conventions and the Turkish declarations concerning the administration of justice in Turkey. Tonight Sir Horace asked whether it was our purpose really to unite with the European powers in treating with Turkey. I told him that perhaps it would be more exact to say that we would cooperate with them. The same has been said informally to the French and Italian chief delegates.

Until we see better the trend of affairs it seems prudent not to pledge ourselves to an actual participation in negotiations, and indeed this may be our best and final policy. In our formal statement [6] before the conference and in private interviews with the Allied delegates we have shown a willingness to assist at the negotiations. This course seems to have induced already in the British Government a friendly attitude. Meanwhile it may be useful to maintain an attitude of reserve.

GREW

767.68119/562 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 29, 1923—12 p.m.*
[Received April 30—2 a.m.]

272. Your 28, April 19, 6 p.m., paragraphs 11 and 12. All members of staff concur in the following views which I submit to the Department for its consideration and instructions:

1. It is urgent that the task of our mission be clearly defined, as, beginning the morning of May 1, the declaration and two conventions mentioned may be discussed this week.

2. I have as yet formed no definite opinion as to whether we should join the Allies in signing the conventions, but at present I am inclined to think it would be better to sign substantially identical treaties. It is probable that later negotiations would give us no more favorable terms and an intervening period might be to the disadvantage of our citizens in Turkey.

3. It is not likely that there will be any objection by the Allies or the Turks to my taking part in committee discussions regarding the draft declaration. A different situation may exist with respect to the conventions in view of counterproposals by the Turks excluding accession of [third parties]. The Turks might object to my participation in debates on these conventions, although there would probably be no objection on the part of the Allies, who recog-

[6] See telegram no. 251, Apr. 23, from the Special Mission, p. 988.

nize that they have a community of interests with us. With respect to the negotiation of the conventions I am inclined to believe that we should limit our participation to: (1) informal talks; (2) a general indication of our interest in the main committee; (3) taking part in the discussions in subcommittees.

4. The Turks are very anxious to negotiate immediately a treaty of amity and commerce with us. The reason for this is partly that they realize the importance of their trade with the United States and partly that they believe that for its internal development Turkey largely depends on friendly relations with our country. It might make our participation in discussions of conventions more desirable to the Turks if, as an act of good faith, we should offer to proceed immediately to negotiate a treaty of amity and commerce, it being understood that the treaty would not be signed unless or until the conventions and declaration were made acceptable to us. We could base preliminary negotiations on the treaty draft which Turlington brought, adding an article regarding claims.

If suggested program meets Department's approval I should be authorized to begin conversations at once with both Turks and Allies, dealing with both in the open and avoiding arousing suspicion on the part of either.

GREW

767.68119/561 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *April 30, 1923—5 p.m.*

116. Department has found your telegrams 263, 265 and 267 of April 27 most helpful. Department approves position taken by you in conversations with Ismet and Allied delegates and also your statement on capitulations transmitted in your 265.

HUGHES

767.68119 P/22

The Special Mission at Lausanne to the Secretary of State

No. 2–A LAUSANNE, *April 30, 1923.*

[Received May 10.]

SIR: I have the honor to transmit herewith a copy and translation of the text of the so-called Montagna formula, together with a copy and translation of the new draft declaration which this Mission is informed will be presented by Sir Horace Rumbold at an early meeting of his Committee,[7] when the Judicial Capitulations will be

[7] Rumbold formula not printed.

discussed. The Department has already been informed by telegram [8] of the variations between the original draft declaration, presented with the treaty in February last and the Montagna draft.

I have [etc.]

F. L. Belin
Secretary General

[Enclosure—Translation]

Judicial Safeguards for Foreigners in Turkey

COUNTERDRAFT SUBMITTED BY ISMET PASHA TO LORD CURZON ON SUNDAY FEBRUARY 4, 1923 (M. MONTAGNA'S INSERTIONS IN PARENTHESES)

1.—The Turkish Delegation has already had occasion to state that the Government of the Grand National Assembly of Turkey is in a position to ensure to foreigners all the safeguards of a good administration of law in the Turkish courts and to provide therefor in the full exercise of its sovereignty and without any foreign intervention. It is nevertheless disposed to have an investigation made and to examine the situation with a view to the introduction of such reforms as would be justified by the development of moral principles and civilization.

2.—Animated by this spirit, the Turkish Delegation desires to make the following declaration.

3.—The Turkish Government proposes to take immediately into its service, for such period as it may consider necessary and which will not be less than five years, European Legal counselors, who shall be selected ~~by it~~ (from a list drawn up by the Permanent Court of International Justice of The Hague) among the jurists citizens of countries not having participated in the war of 1914–18, and who will be (engaged as) Turkish functionaries.

4.—These legal counselors will be attached to the Ministry of Justice where they will participate in the labors of the Commissions on legislative reforms and it will be their special duty to follow in the cities of Constantinople and Smyrna, the functioning of civil, commercial and penal Turkish jurisdiction and to receive all complaints which may arise either from the administration of civil, commercial or penal justice, or the execution of penalties or the application of laws (as well as domiciliary visits, searches or arrests) with the duty to report to the Ministry of Justice with a view to assure the strict observance of Turkish legislation.

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[8] Telegram no. 14, Feb. 8, from the Minister in Switzerland, p. 968.

5.—In cases of misdemeanor, release on bail shall always be ordered, unless public security is thereby compromised or the temporary release interferes with the course of the investigation of the case.

6.—In civil or commercial matters all agreements and compromises are permitted and the arbitral decisions thus rendered shall be carried out on the approval of the President of the Tribunal of First Instance who cannot refuse his approval, except when the decision would be contrary to public order.

This declaration is valid for a period of five years.

767.68119/562 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *April 30, 1923—6 p.m.*

117. 1. Your 272 of April 29. The course you suggest is sanctioned by the Department. Whenever you judge the moment opportune you may begin informal discussions with the Turks and with the Allies, looking toward first, the negotiation of a treaty, and second, a participation, such as you recommend or as the situation may hereafter require, in drafting the Turkish declaration and the conventions.

2. The Department notes that the substance of the conventions is in part virtually the same as that of the project of a treaty sent to you through the legal expert on your staff. It is assumed, therefore, that you will not wish to resort to the Department's project except as the conventions do not make adequate provision for matters in which the United States is especially interested.

3. It is important that nothing be done which may enable the Turks, through their private dealings with you, to sow discord between you and the Allied delegates. But the Department hopes that you may escape these embarrassments by a prudent association with the Allies in negotiating their settlement with Turkey.

4. There seems to be no advantage in sending you more precise instructions now, unless you particularly desire them, as you will have more abundant information than the Department has upon which to base your choice of means for giving effect to the present general instructions and to those you received in Department's 28 of April 19.

HUGHES

711.672/33 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 2, 1923—4 p.m.*
[Received 9:15 p.m.]

278. In accordance with Department's 117 of April 30, I explained yesterday to Ismet and to each of the Allied chiefs of delegation that:

1. The United States is now prepared to negotiate with Turkey for a treaty.
2. We will consent to sign the treaty only after the Turks have reached a settlement with the Allies, and after the conventions and the declaration have been drawn up to our satisfaction.
3. That we are willing to take part in framing the foregoing instruments, and are disposed to conclude with Turkey agreements in the same or similar terms.

On the ground that the rules of subordinate committees do not permit participation by outsiders, Rumbold has objected to our presence at deliberations of the legal experts who are now laboring upon a definition of the status of foreigners in Turkey. He suggested that we could be of service in private conversations and by offering comments sometimes on the business of the principal committee. I reminded Sir Horace that I was present at the conference as a regularly accredited representative of the United States Government, and I expressed my belief that to have the American experts take a full and active part in the deliberations of the subordinate committee would be in the interest not only of the United States but of the Allies also. My arguments did not seem to move him, and it may be necessary to make representations in London after we have received the views of the other Allies. Some hours later, and perhaps on the strength of instructions from the Foreign Office, Sir Horace took exception to our beginning the Turkish treaty negotiations at present. He objected on two counts: (1) that by augmenting the labors of the Turkish experts, the business of the conference might be retarded; (2) and that an opportunity might be given the Turks to set the Allies at odds with the United States. To these objections I replied that we should make it perfectly clear to the Turkish delegates that we must conduct our discussions so as never to obstruct the work of the conference, and that we should avoid differences with the Allies by maintaining an intimate association with them. With this reply Rumbold professed himself satisfied.

Our program is cordially approved by Montagna. He told me he would not wait to consult the other Italian delegates before tele-

graphing to his Government for instructions to convey his official approbation. When he told me he supposed we would wish to have the Allies regularly advised of the course of our dealings with the Turks, I said that there was no occasion for secrecy. He also recounted to me for my private information how he had taken upon himself yesterday to suggest that the Americans be accorded a place on the committee of legal and drafting experts but had been met by objections from the British representative in the committee.

My exposition of our present designs was received courteously by Pellé. He said he anticipated no objection to our proposals although he would be obliged to refer them to Paris.

I was careful not to give any pledges to Ismet, during our interview last night, binding us to begin discussions with him. I stipulated that (1) he must settle with the Allies at Lausanne before we would sign with him; (2) the declaration and the two conventions must be framed to our satisfaction; and (3) the business of the conference must not be in the least retarded by our negotiations with Turkey. More than once Ismet signified his very earnest wish to conclude a treaty with us whenever we could reach an accord and with no reference to his dealings with the European powers. I made it plain that we could not adopt that course. He then enquired what our position would be if his negotiations with the European powers fell through. I said to him that in that case new problems might arise, and that we could not say in advance what our position would be. He declared jestingly that the formality of signing their treaty with the United States must be set for either a day earlier or a day later than the signing of the Allied treaty, as he must decline to discharge both offices on the same date.

Ismet asked how soon he might expect the presence in Lausanne of American representatives with full powers to negotiate a treaty. In reply I intimated that before we considered that point it might be useful to agree upon some fundamental principles of discussion. Ismet proposed that as a manifestation of willingness to proceed in the matter there should be an exchange of notes between us, whereupon I in turn proposed that, until we had worked out preliminaries satisfactory to both sides, we should confine ourselves to informal discussions. Ismet then suggested that I write him a note. I replied that as first expression of desire for treaty had come from him, I could not venture to interfere with his prior privilege of making definite proposal. He acquiesced and promised to send me very soon, in writing, his proposals for the nature and substance of our formal accord. I told him that we would carefully consider and duly reply to any communication he might make. I informed Ismet that I should advise the Allies of all developments. We were

at one, however, in thinking that our transactions should be kept from general knowledge. I hope to hear soon from the French and Italians.

GREW

767.68119E/10 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extracts]

LAUSANNE, *May 3, 1923—6 p.m.*

[Received 8:15 p.m.]

285. Fourth meeting of third committee today.

Articles 116 and 117 of draft treaty and articles 10 to 17 inclusive of convention respecting regime of foreigners in Turkey were discussed.

. . . . . .

At the end of the meeting Grew stated that the questions under discussion were of particular interest to the United States, and that he desired to reserve the privilege of more detailed comment. Sir Horace Rumbold inquired as to the effect of this statement and desired to know when Grew would expect to make statements, as the conference could not delay its work. Grew replied that the American delegation had no intention of delaying the proceedings of the conference and that he simply desired to make reservation of the right to comment in later discussions, should he consider it desirable to do so.

GREW

767.68119 E/11 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 4, 1923—2 a.m.*

[Received 5:27 a.m.]

286. Referring to Mission's 285 of May 3. Supplementing earlier statements, my brief statement at the close of the morning session of the third committee was intended as a reaffirmation of our purpose to take part, whenever agreeable, in deliberations upon questions which might concern our interests. I carefully refrained from alluding to our desire to join in the labors of the subcommittee, as I believe it will be easier to come to an agreement with the Allies by informal discussions. Nevertheless, the representations which I made and the question put by Rumbold have carried the issue to a head, and today it has been under discussion among the representatives of the inviting powers. . . .

It is reported that Lord Curzon, under whose orders Rumbold is proceeding, takes the position that our status is only that of mere observers unless we are ready to share responsibility and sign the treaty and the conventions with the Allies.

It is the belief of Montagna that in the end the British will give in on all points, and that the treaty will be very unsatisfactory. He is much dejected although he still thinks that the treaty will certainly be signed.

GREW

767.68119E/12 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract—Paraphrase]

LAUSANNE, *May 4, 1923—11 a.m.*
[Received May 5—6 : 14 a.m.]

290. Mission's 278 of May 2 and 286 of May 4. Rumbold with good grace has abandoned his opposition to participation in the work of the subcommittee by members of our Mission. Tonight [9] he sent his legal expert to ask who would represent us in the meeting of legal experts tomorrow. Tentatively, I named Turlington. Now we shall be represented on all subcommittees dealing with matters in which we have an interest.

. . . . . .

GREW

767.68119P/11 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *May 4, 1923—8 p.m.*
[Received May 5—5 : 38 a.m.]

288. Fifth meeting first committee today.

Rumbold in opening meeting stated that he had a new formula for a declaration on the judicial regime of foreigners which would be distributed at the end of the meeting (see our telegram 248, April 22, 9 p.m.[10]). He would not conceal from the Turks that it provided for an important change from the so-called Montagna formula, viz, in regard to domiciliary visits, searches, arrests, et cetera. French, Italian and Japanese delegates associated themselves with Rumbold.

Ismet replied that Turks had come back to Lausanne on the basis that the Allies had accepted the Montagna formula and that this

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[9] Apparently this telegram was drafted on the night of May 3.
[10] Not printed.

was one of the questions that had been settled. The Montagna formula represented the maximum that the Turks could offer and the question could not be reopened.

Allies took position that Montagna formula was offered to Turks Sunday evening, February 4th, in a last effort to secure peace. The offer was not accepted and the conference adjourned. It was not accepted by Ismet until Monday and in consequence cannot be considered as binding on Allies.

Ismet replied that secretary general of conference on February 7th had said to him: "If Turkish delegation will accept Montagna formula presented in the name of the Allies, conference can reassemble." Also Colonel Mougin in Angora had sent a letter to Turkish authorities stating that Bompard and Ismet had agreed on the Montagna formula. Furthermore, in Bucharest a high Roumanian official had informed Ismet that if the Turks would accept Montagna formula, conference could go on.

Pellé replied that Mougin letter was written to refute the statement that French were responsible for the breaking up of the conference. Mougin cited in letter that Bompard had said he was personally agreeable to accept Montagna formula. Bompard spoke for himself and not for French Government; Diamandy disclaimed any knowledge of what Duca had said to Ismet.

Ismet pointed out that Turks had exposed their [point of view] in their counterproposals, and Allies after carefully examining them had agreed to resume conference. Allies were now proposing a substantial modification of basis of resumption. They would not permit discussion of subjects which were substantial modifications of territorial claims; why should Turks permit substantial modification of their voluntary declaration; he suggested conference accept Montagna formula and proceed to the order of the day.

Rumbold declined to agree. Pellé and Montagna urged Turks to let question be studied in subcommittee. Allies had consented to discuss Turkish counterpropositions in subcommittee; why should not Turks discuss this Allied counterproposal in subcommittee.

Ismet replied Turks cannot discuss a question which affects their sovereignty. Pellé pointed out that Turks had been willing to discuss in subcommittee their declaration about religious institutions, et cetera. What was difference? Allies pointed out that their counterproposal was no attack on Turkish sovereignty but only an effort to define functions of officials which are in last analysis Turkish functionaries appointed by Turkey in full exercise of its sovereignty.

Grew made following statement:

"I appreciate the spirit in which the Turkish delegation had indicated its willingness to make a declaration on the subject under discussion, and I should be glad to see the declaration issued in such

a form as to be acceptable to the United States in connection with such revision of the existing treaties as may be agreed upon between the United States and Turkey. My Government would attach great importance to provisions in the declaration clearly defining the function of the proposed legal advisers, for example, with respect to domiciliary visits, searches, arrests and imprisonment."

Ismet immediately replied that in the discussions on February 4th concerning the Montagna formula, Child, Grew and Admiral Bristol had approved of the terms discussed and that he had obtained the impression that this formula was acceptable to them. Grew immediately replied as follows:

"I fear there is a slight misconception in the mind of His Excellency, Ismet Pasha. At our last informal conversation with him we were endeavoring to use our good offices with a view to enabling the delegates of the Allies and of the Turks to reach a settlement and no commitments were made by us either on our own behalf or on behalf of the Allies."

Ismet stated no addition to "the maximum" was possible. He again begged conference to accept Montagna formula and proceed to the order of the day.

Rumbold suggested referring question to jurists which Ismet objected to, saying that jurists can only work on basis adopted by conference. Turkish basis is the end, question is already settled.

Rumbold stated conference would resume discussion of question at later date whereupon Ismet replied: "We stand on the basis we have stated."

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GREW

767.68119/567 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 5, 1923—noon.*

[Received 8 p.m.]

293. The activities of the conference during the past week are summarized below:

An attempt is being made in Constantinople to settle the economic questions by direct negotiation, and results are awaited here before taking up consideration of economic clauses of treaty. Apparently the Chester concession is not to be touched upon for the time being.

Whenever the question of reparations presents itself, the Turks insist that it has been already settled, a view which the Allies do not expressly admit. It is proposed by the Turks, therefore, that the question be taken up at once by the finance commission.

The Allies have conceded the abolition of the capitulations, but reject contention of the Turks that the abolition is to date from 1914. We have again set forth the view of the United States Government that the Turks cannot annul the capitulations by their own sole authority.

It is probable that privileges contemplated in the declarations and conventions will be conceded also to the United States without the least objection from the Turks. Moreover the Turks are anxious to begin negotiations with us for a treaty of friendship and trade. We have already the Department's authorization to begin conversations with that end in view. In order that one side may not use us against the other we are moving with circumspection, and have let it be understood that until the peace treaty is definitely agreed upon we will not formally bind ourselves.

Yesterday a sharp dispute arose over the form of the Turkish declaration concerning their juridical system. The declaration is unacceptable to the Allies, but the Turks have declined to consider alterations. The massing of Turkish troops along the Syrian border is also causing difficulties, and the French are making veiled threats to quit Lausanne, although the threats are somewhat discounted. It is commonly expected that the negotiations will end in less exacting terms.

GREW

767.68119P/12 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract]

LAUSANNE, *May 6, 1923—11 p.m.*
[Received May 7—9:07 a.m.]

297. . . .

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In view of recent controversy concerning our admission to subcommittees it is particularly gratifying to me to note that reception accorded our representative in jurists group was distinctly cordial and helpful. At beginning he was informed that all discussions are amicable and strictly private, all opinions provisionally. Special efforts were made to facilitate his task and he was invited to express views on subjects discussed. He stated that whatever he said would be without instructions and would represent only his own opinion. Alluding to the Turkish desire to reserve the right to subject foreign companies to legislation not applicable to Turkish companies, he observed that in the United States we had sometimes found it useful to have provisions in a treaty by which legislation not deemed conducive to the best relations with foreign countries might be

restrained. With respect to the right to own real property in Turkey he remarked that we should consider the protocol of 1874 applicable. Upon Munir Bey's stating that he would not consider the protocol applicable to ownership of property by companies Turlington replied that he would of course not desire to retard the discussions by going into this question.

GREW

767.68119E/14 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 6, 1923—midnight.*
[Received May 7—3:10 a.m.]

298. Your 128 of May 5.[11] Grew and Dolbeare, with all members of staff present as advisers, sit in the three chief committees. There are also three subcommittees which are known as "groups of experts"; these are: (1) economic; (2) financial; and (3) legal experts, which also is the [omission] committee. Both Turlington and Barnes have been meeting with the economic subcommittee. As no matters of direct concern to us have been referred to the financial subcommittee, we have not as yet been represented at its meetings. Our only representative in the subcommittee of legal experts is Turlington, as this subcommittee is composed of only one representative from each of the following delegations: American, British, French, Italian, Japanese, and Turkish. Turlington has been received with marked cordiality by its members. (See our telegrams 290 of May 4 and 297 of May 6.)

Shaw's assignment greatly pleases us. We shall decide after his arrival regarding his subcommittee work.

GREW

767.68119P/21 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *May 10, 1923—1 a.m.*
[Received May 9—10:25 p.m.]

311. In meeting May 9 of special subcommittee Turkish declaration regarding schools was discussed and "religious institutions" was added to category with assent of Turkish delegate.

Allies desired provision made for recognition of institutions of recent formation and requested sentence regarding propaganda be

[11] Not printed.

stricken out as useless and offensive. In admitting general principle that schools, et cetera, fall under Turkish law, particular emphasis was laid on addition of phrase providing that special committee for channels of foreign schools should be taken into consideration. Dolbeare, the American member, expressed desirability that declaration should be liberal, explaining that, while doubtless it was not the intention of the Turkish Government to paralyze foreign institutions by impossible regulations, still it would be most reassuring if the Turkish declaration to the Allies could make this clear. He pointed out that the declaration would be weighed by a great number of Americans and would be regarded as presaging the treatment to be given our schools. He believed desired asylum would be in harmony with Turkish intentions. Allied experts expressed full concurrence.

Repeated to Constantinople.

GREW

767.68119/614

Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

[WASHINGTON,] *May 11, 1923.*

Mr. Craigie of the British Embassy, who has very recently returned from a brief visit to London, called on me on May 9th to discuss the Department's memorandum of March 31st with regard to the economic clauses of the Lausanne Treaty. (A copy of this memorandum is attached).[12] Mr. Craigie had with him a despatch from the British Foreign Office commenting in some detail upon the Department's memorandum from which he read various sections (but which I did not see *in toto*) in taking up point by point the Department's observations as indicated below:

(*1*) *The question of the inadequacy of the discussion of the economic clauses.*

Mr. Craigie indicated that the British Government had noted with some surprise the reference in Ambassador Child's letter of February 4th [13] to the view of the American Delegation that they had not been given an adequate opportunity to discuss the economic clauses. In this regard Mr. Craigie said, in referring to the Foreign Office communication to the Embassy, that these clauses had been discussed by the technical experts before being incorporated in the draft treaty. The draft treaty itself was handed to the American Delegates three days before its formal presentation to the Turks, and yet Ambassador

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[12] *Ante*, p. 972.

[13] See telegram no. 244, Feb. 7, from the Special Mission at Lausanne, p. 968.

Child had only filed his complaint a week later, on February 4th, the day of the departure of the British Delegation, when it was too late to take any action.

In commenting on this remark I said to Mr. Craigie that it was my understanding that while the economic clauses had been discussed in sub-committee on one or two occasions, the clauses to which the Department's memorandum had particular reference and to which Ambassador Child adverted in his letter, had never formed the subject of agreement and yet had been inserted in the draft treaty at the last moment somewhat to the surprise of the American Delegation. In this regard I referred particularly to the clause which provided that the question of granting concessions should be referred exclusively to the Ottoman Public Debt Commission, which had had very little preliminary discussion, upon which the views of the American Delegation were known and which had nevertheless been incorporated in the draft treaty. This article had not been specifically mentioned in the Department's memorandum of March 31st as the question had become an academic one in view of the article's subsequent elimination, but I referred to the matter as it was illustrative of the procedure which had been followed in regard to certain other economic clauses which had been mentioned in the Department's memorandum.

With regard to Mr. Craigie's statement that the American Delegation had allowed a week to pass between the preliminary submission of the draft treaty and the filing of Ambassador Child's letter, I pointed out that it was obvious that the American Delegation had not desired to raise objections in the open meetings of the Conference to certain clauses of the draft treaty as such action might have rendered still more difficult the arduous task of the Allies in securing the Turks' acceptance of a treaty. It had therefore seemed preferable to them to make known their viewpoint in informal discussions with their Allied colleagues; thus the letter of Ambassador Child had merely summarized a viewpoint which had been made quite clear to the British, French and Italian representatives at Lausanne prior to February 4th.

. . . . . .

In reply to Craigie's remarks regarding the position of the American representatives at Lausanne, I said that the statements of the American Delegation had been openly made before the Conference, that I did not see how they could have afforded any ground for misunderstanding nor had any attempt been made to suppress discussion of the American position as there expressed. There were three types of questions which had been discussed at Lausanne: first, the political and territorial questions in which the American repre-

sentatives had taken no part; second, questions which might be described as of general world importance, such as the Freedom of the Straits and the protection of minorities, on which this Government's views had been clearly expressed, and third, questions relating to the substitution for the capitulatory regime in Turkey of new guarantees; a matter in which this Government, as one of the most important capitulatory powers, was very much concerned. With regard to this third category of questions, the American Delegates had clearly expressed this Government's position. These statements had been of a nature to help in the solution of the questions involved and had shown a substantial community of interest between the Allied Powers and the United States. Where there had been minor divergencies of views, as in the matter of economic clauses discussed in the State Department's memorandum, the American Delegates had desired to avoid any airing before the Turks of points of differences, believing that these matters could be ironed out by direct and informal conversations without embarrassing the Allies in their own negotiations.

(2) *Article 94 of the Lausanne Treaty relating to the confirmation of concessions, agreements, etc., whether formally ratified or not.*

Craigie here read a paragraph from the British Foreign Office communication which states that this Article had been inserted with the view to protect the French interests under the "Périer" Contract by the terms of which France had made a substantial loan to Turkey in return for certain rights (Samsun-Sivas Railway, etc.), had received an imperial *iradé* confirming these rights but had not secured the formality of a Parliamentary ratification. The British Foreign Office did not presume that this Government would desire to take the position that France should be deprived of rights which would have been assured to her in full legal form except for Turkey's entry into the war on the side of Germany when she used the very funds which France had given her to carry on war against the Allied Powers.

I replied that in its comment on this Article the Department had not desired to make reference to any one contract or group of contracts but to the general principle that treaty provisions should not be used to bring about the validation of incomplete rights. If valid vested rights had existed, it might be entirely proper for them to be restored by treaty but it would open a rather broad field for controversy if preliminary negotiations were, through general treaty provision, to be made the equivalent of a final grant.

Apparently the British Foreign Office had fully realized that the Turkish Petroleum Company Concession as well as the French contract would be influenced by this Article, as Craigie proceeded to

read a further section from the Foreign Office communication to the general effect that before the war the negotiations of the Turkish Petroleum Company had reached a stage when the concession would have been promptly ratified if war had not intervened; that the British Foreign Office did not fully understand this Government's position in attempting to contest this concession, as it had not advanced the claim that any superior prior rights existed.

I remarked that if the position were taken that rights almost acquired before the war should be confirmed, the Chester negotiations of 1910–1911 seemed to be on all fours with the Turkish Petroleum Company's claim. Undoubtedly the former concession would have been granted in 1911 if the Italian War had not interrupted negotiations. Passing to the general principle involved, I said that in its correspondence in regard to Mesopotamia this Government was not supporting any one American interest or group of interests but the principle of the Open Door, that if the Turkish Petroleum Company's incomplete grant were recognized the indirect affect would be to close the Door in Mesopotamia to any future interests. (I gathered from what Craigie said that the British Foreign Office had gained the idea that there was some secret American interest which the Department was endeavoring to protect in fighting the Turkish Petroleum Company's grant. In fact he asked me the direct question and I answered him as directly that our interest was not particular but general for a principle not on behalf of any specific company.)

Reverting to the discussion of Article 94, I remarked that it was possible that our present discussion was somewhat academic in view of the present situation of the question as I understood that this Article was to be substantially modified in the event that a satisfactory agreement between the Allied concessionaires and the Turks could be reached.

(*3*) *The question of the Civil List property.*

With regard to the Civil List property, Craigie remarked that this was really the property of the Turkish Crown and as such naturally passed to the successor estates. To this I replied that I had understood that in addition to Crown property there were certain estates administered by the Civil List which were the property of private individuals and that it might be possible to so phrase the article of the treaty to protect any bona fide private interests so administered by the Civil List.

(*4*) *Rights acquired in detached territories.*

In commenting upon the Department's statement that it could not admit the impairment of any rights acquired by American

nationals in good faith in these territories, Mr. Craigie read from his memorandum the statement that it was not the intention of the British Government to make use of this Article to deprive American nationals of any rights validly acquired in these territories. He added that the clause had been inserted in order to protect the mandated territories against the claims of adventurers who had secured, under very questionable circumstances, rights and concessions in these territories at a time when Allied nationals, being at war with Turkey, were unable to compete.

(5) *Possible American interest in German, Austrian, Hungarian or Bulgarian concessions in Turkey.*

Mr. Craigie remarked that the British Government did not know of any such American interest but that he would call attention to the fact that this Article in the Lausanne Treaty was identical with articles covering the same subject matter in the treaties with the Central Powers. He said, however, that the question of protecting American interests in such concessions might be a matter to be worked out through the drafting of this Article.

(6) *Provision regarding the denunciation of treaties inconsistent with the Lausanne Treaty.*

I pointed out that under Article 115 of the Lausanne Treaty the Turks might endeavor to claim that they were obligated to the Allies to denounce our Treaty of 1830 and protocol of 1874 [14] and in this way make more difficult future American negotiations with Turkey for the revision of these treaties. Such negotiations would naturally be predicated upon the position that these treaties were still binding obligations of the Turkish Government.

In concluding the consideration of the memorandum I said to Mr. Craigie that many of the questions which he had raised were now the subject of the discussions at Lausanne, that our telegrams gave ground for the hope that the frank and cordial interchange of views which were there in progress would result in a satisfactory adjustment of many of the questions we had been discussing, at least as between the American and Allied representatives.

I attach a memorandum [15] prepared by Mr. Dwight commenting on this conversation and giving the benefit of his direct acquaintance with the Lausanne negotiations.

A[LLEN] W. D[ULLES]

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[14] Malloy, *Treaties*, 1776–1909, vol. II, pp. 1318 and 1344.
[15] Not printed.

767.68119P/37 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 23, 1923—1 a.m.*
[Received May 24—3:20 a. m.]

360. I have received two notes from Venizelos urging that I intervene with the Turkish delegates on grounds of humanity to try to secure permission for the return of Armenian and Greek former residents of Turkey to their homes in Anatolia. I did not commit myself but answered that I would consider his request fully and sympathetically.

In subcommittee meeting today satisfaction was given to the Greek point of view with respect to Greeks resident in Constantinople. The Turks insist, however, that with Turkish public opinion still hostile to the Armenians it would be disastrous to the Armenians themselves to allow them to return to Turkey for the present. The Turks hold that this condition will change in time. I doubt whether it is advisable for us to actively intervene.

Repeated to Athens and Constantinople.

GREW

767.68119 F/18 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *May 27, 1923—4 p.m.*
[Received May 28—1:23 a.m.]

373. My 372, May 26, 7 p.m.[16] The private meeting of May 25 [*26*] was restricted to the chiefs of the six Allied delegations and Ismet, Venizelos and myself.

Pellé presiding reviewed the situation, and designs of [*described*] the Karagatch proposal[17] as a personal and unofficial suggestion. Rumbold expressed his opinion that the Lausanne representatives of Greece and Turkey would reach an agreement if their respective Governments allowed them. He urged the Turks to accept the solution suggested since a delay endangered peace. Montagna pointed out the unimportance of the dispute as compared to the issue of peace or war. He urged Ismet to accept promptly and besought Venizelos to give the time necessary. Pellé turned to me and I made the following statement:

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[16] Not printed.

[17] That Turks agree to accept Karagatch from the Greeks in lieu of indemnities.

"As the representative of a government not directly involved in the problem for which you are seeking a solution, I can appropriately restrict my remarks to certain larger and more fundamental aspects of the present situation in the Near East which, in the stress of crisis, may not always receive adequate consideration.

The states most directly concerned in this afternoon's deliberations have at least one characteristic in common. Both have undergone a prolonged period of struggle; both are at the threshold of eras of reconstruction; both are faced by problems of internal organization which demand the undivided services of a thoughtful and self-controlled statesmanship fully alive to its responsibilities and to its privileges. I cannot conceive that Turkey, determined apparently to reorganize its Government and the fabric of its society along modern and democratic lines, should put this task aside, certainly for many years perhaps indefinitely, in order to concentrate its energies on war. I cannot conceive that Greece, seeking to reconstitute its national life and faced by a refugee problem involving horror stricken [*hundreds of*] thousands, should deliberately abandon these primary duties to embark upon the uncertainties of a military campaign. In urging therefore that no effort be spared to find a peaceful solution of the present problem in earnestly recommending above all that no hasty and ill-considered move be made, I am appealing to nothing less than the patriotism of both Turks and Greeks. I appeal to you in the name of the future history of the states which you represent."

The Japanese delegate refrained from detailed suggestions but urged prompt action to ensure an early peace.

The Serbian delegate defended the Greek thesis and entered a reserve in the name of his Government against the Karagatch proposal on the ground that the presence of the Turks on the European side of the Maritza would arouse suspicion and restlessness in the Balkans.

The Roumanians urged the Turks to accept something tangible like Karagatch rather than chase a shadow. He asked for a prompt decision in view of the anxiety in the Balkans and urged Venizelos not to act precipitately.

Ismet replied at length but vaguely indicating that he attached several conditions to the acceptance of the proposal. This he said was not the only question endangering peace. The Allies insisted on restricting the discussion to the present question and at length demanded a categorical reply. Ismet then admitted that he had a reply from Angora and that he accepted the following formula:

1. Greece recognizes its obligation to pay reparations and Turkey renounces the payment.
2. A rectification of the frontier to allot Karagatch and its environs to Turkey shall be made.

Venizelos recognized warmly the conciliatory attitude of Ismet and asked the Serbian delegate to withdraw his reserve. The Serbian representative replied that the objection offered by his Government would not be carried to a point which peace would be endangered, but he desired that his objection be made a matter of record. Venizelos agreed promptly to following minor demands:

1. Greece will discuss with the Allies any damages owed to Allied shareholders in Ottoman companies which suffered losses from the acts of Greek troops and Turkey is discharged.
2. Reciprocal restitution of [*by*] Greece and Turkey of ships seized after Mudros armistice.

Before the meeting broke up both Ismet and Venizelos thanked General Pellé for his good offices and extended their thanks to all the Allied representatives and to myself.

I may add that the suspense in this meeting endured two hours and that, when the solution was finally reached, the relief felt by everyone manifested itself by a cordiality and warmth of expression that was highly dramatic.

We have been generally congratulated on the part we were able to play in aiding this settlement, and I am likewise making a point of congratulating my Allied colleagues on the happy result of their efforts.

Repeated to Constantinople and Athens.

GREW

767.68119 P/44 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 31, 1923—1 a.m.*

[Received 3 a.m.]

384. Yesterday morning there was a private meeting of the British, French, and Italian representatives with Ismet at which they provisionally agreed upon a formula for a judicial declaration which they telegraphed to their respective Governments for instructions. I have confidentially received the text of this formula. It is substantially the same as the Rumbold formula [18] transmitted in our despatch 2–A of April 30, except for the omission of the second sentence of the third paragraph and all of the fifth paragraph, and the substitution of the following for the fourth paragraph: [19]

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[18] Not printed.

[19] Quotation not paraphrased.

"These legal counsellors will be attached to the Ministry of Justice and will have their headquarters, some in the city of Constantinople and others in the city of Smyrna. They will participate in the labors of the legislative commissions and it will be their duty to follow, without interfering with the performance of the duties of magistrates, the functioning of Turkish civil, commercial, and penal jurisdiction, to address to the Minister of Justice all reports which they may judge necessary; they will be qualified to receive all complaints which may arise either from the administration of civil, commercial, or penal justice or from the execution of penalties or the application of the law, with the duty to report to the Minister of Justice, in order to ensure the strict observance of Turkish legislation.

They will also be qualified to receive complaints which may arise in connection with domiciliary visits, searches or arrests; these measures, on the other hand, in the judicial district of Constantinople and Smyrna, being brought without delay, when they are effected, to the knowledge of the legal counsellor by the local representative of the Minister of Justice. This magistrate will, in such cases, be qualified to correspond directly with the legal counsellor."

GREW

767.68119P/46 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 1, 1923—2 a.m.*

[Received 3:55 a.m.]

390. Our 384 yesterday. After I had learned of the formula for the judicial declaration which Ismet and the Allies had provisionally accepted, I sought an interview with Ismet as soon as possible, and, referring to previous conversations between us on the subject, I once more strongly urged the importance to Turkey of creating confidence in America and other countries regarding judicial safeguards. Besides the provisions which the Allies have made every effort to place in the declaration, and which we have discussed repeatedly, I elaborated and stressed two additional points, which if included in the declaration would not at all infringe upon Turkish sovereignty but would tend to create the confidence desired and which are accepted generally in national and international practice. These points are as follows:

1. Requirement that warrants be issued before arrests, domiciliary visits or searches, except when there is "flagrant *délit*".
2. The right of consuls to have access to their nationals in prison.

In reply Ismet said that Turkish law fully recognized the first of these principles and that by customary procedure the second was allowed. It is not likely that Ismet can be induced to have these points included in the general declaration, but later we possibly can persuade him to put these assurances in a letter to us. Probably this would be hard to obtain unless we are ready to make it an absolute requirement of signature and it is doubtful whether insistence would be justified by the advantage to be gained.

I am repeating this telegram to Constantinople.

GREW

767.68119P/37 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 1, 1923—3 p.m.*

159. Your telegram 360 of May 23. Doubtless you are familiar with the circumstances of the recent trip of Colonel Haskell to Angora [20] when he unsuccessfully sought to obtain from the Turkish authorities permission for the refugees in Greece who desire to return to their former homes in Turkey to do so. The Department questions whether it is possible at present to achieve any appreciable progress along this line. We may hope that the Turks themselves will appreciate after the conclusion of peace the disadvantages of their present policy respecting the refugees and will allow those wishing to go back to Turkey to do so.

The compulsory transfer of thousands of persons between Turkey and Greece will surely result in serious hardship, as was stated by our Mission during the first phase of the Lausanne Conference. The Department does not feel that an attempt to do this on the scale proposed is a practical solution of the problem. The Department is inclined to share your view, however, that now is not the time when anything could be done in this matter with any expectation of success. Report whenever there is any indication of a change by the Turks in their attitude in this matter.

Repeat to Athens as our no. 30 and to Constantinople as our no. 106, referring to your telegram no. 360.

HUGHES

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[20] See telegram no. 66, Mar. 29, from the Chargé in Greece, p. 329.

767.68119P/48 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extracts]

LAUSANNE, *June 4, 1923—5 p.m.*
[Received June 5—3 : 06 a.m.]

399. Eleventh meeting first committee today.

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Judicial declaration—Text as agreed on by Ismet and Allies (see my 384, May 21[*31*], 1 a.m.) accepted. Grew read following statement:

"The declaration which His Excellency Ismet Pasha has indicated his willingness to make, is, I believe, intended to inspire confidence in the ability of Turkey in the administration of justice in her territory to secure to foreign citizens and companies the fundamental rights which they enjoy under the best and most modern systems in other countries. I am glad he has seen fit to specify in this declaration some of the measures which Turkey deems calculated to achieve this desirable result.

I venture to add one general observation: The really important consideration is the largeness of spirit in which the entire judicial system of Turkey is to be administered in the future.

I am sure that no one realizes more clearly than does His Excellency that it is in the interest of Turkey herself to interpret the terms of this declaration in the most liberal spirit. On the administration of justice within her territories more than perhaps on any other factor will depend the economic future of Turkey and her friendly relations with other countries."

In answer to inquiry posed by Rumbold, Ismet stated that Turkey intends to engage at least four legal advisers whose conditions of service will be fixed in common accord between the Turkish Government and the Permanent Court of Justice at The Hague.

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GREW

767.68119P/52 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 6, 1923—2 a.m.*
[Received 3 : 42 a.m.]

402. Your telegram 159 of June 1. I am informed that the British, French, and Italian delegations have agreed that after all outstanding questions have been settled they intend at the last meeting of the conference before signature to make final forcible representations to the Turkish delegation for the extension of the amnesty terms so

that Armenians of Turkish nationality may be allowed to go back to their homes in Anatolia or that compensation for liquidated property be given if there are reasons why for the safety of the state certain individuals should be barred. It is felt that such humanitarian representations should be made as the conference's final word, whether they are successful or not. The suggestion has been made to me that our delegation might strengthen the effect of these representations by taking part in them and that such participation would merely be giving additional expression to America's traditional humanitarian policy.

I do not think we could appropriately be silent should the Allies carry out their intentions. I am not convinced by any means, however, that it would be in the real interests of the Armenians themselves for an attempt to be made to coerce the Turks into accepting their return now, especially in large numbers. I am inclined to feel that the most effective solution of the Armenian question will be found in non-interference by the powers and the lapse of time. We might, however, without asking permission for a return at once en masse, urge in general terms, if the Department thinks it wise to do so, that there be a reasonable treatment of the question which would seek to harmonize the welfare of both the expatriated Armenians and the Turkish state.

GREW

867.602/81 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 6, 1923—10 p.m.*
[Received June 7—5 : 46 a.m.]

406. Referring to no. 161 of June 1 from the Department.[21] Last night Ismet called upon me, and discussed the general situation at Lausanne. He informed me that he is under pressure from the Allies to admit into the treaty a provision confirming concessions made before the war, upon which work had actually commenced, but which had not been legally validated. He said that the Chester concession is the specific object of this move, and added that in the interests of peace he might be compelled to yield. When he asked for my opinion I said that my Government was fully persuaded that the Turkish Government, which had consistently stood for its legal rights and its national sovereignty, would not now abandon a principle of such importance. Ismet asked what our attitude would be if Turkey yielded. I replied that an unfortunate impression

[21] *Post*, p. 1214.

might be created in the United States by the Turkish surrender. When Ismet suggested that we meet again tonight to discuss the subject, I replied that I did not perceive any advantage in so doing, and I added that if the implication of his suggestion was that I should try to influence the Allies, I ought to explain to him that this was not a question which called for negotiation between the United States and the European powers.

I have had conversations with Rumbold, Pellé, and Montagna since I talked with Ismet. During these interviews Ismet's statements were confirmed. Among the concessionary companies negotiating at Angora only those having unimportant matters to discuss are reaching a settlement. In particular the claims for losses during the war are rejected by the Turks. It is now regarded as necessary, therefore, to insert into the treaty some general provisions, which Pellé outlined this afternoon as follows: (1) Pre-war concessions to be recognized; (2) contracts to be modified to conform to present business conditions; (3) claims for losses during the war to receive consideration; (4) arbitration of disputes to be arranged for. So far as the United States is concerned these proposals appear quite unobjectionable. Pellé admitted, however, when directly questioned, that under the first point the British draft provided for confirmation of concessions made before the war, upon which work had commenced, but which had not been subjected to all the legal formalities. He gave as an instance the French concessions for the Samsoun-Sivas railway and the port of Samsoun, which, he said, have unquestionably a legal validity, but for which the legal formalities had not been completed, owing to the natural impatience of the Turks to receive the French loan. Pellé told me that he would not insist that these concessionary rights be recognized in the treaty if the French concessionaires could at least agree with the Angora Government upon some basis of compensation. But he seemed far less optimistic over a private agreement between the Turks and the concessionaires than he was when I talked to him last week. I explained to him: (1) that our sole interest was in the principle involved, (2) that we regarded with entire sympathy the French effort to induce Turkey to recognize the validity of commitments made before the war, (3) that the legal aspects of particular French claims did not engage our attention, and (4) that we were bound to have some misgivings over making the treaty an instrument for validating concessions which have a doubtful legality or none at all. Before making these observations I told Pellé that I had no specific instructions and was speaking unofficially.

I made similar statements in conversations with Rumbold and Montagna, both of whom maintained a decisive attitude. In my

interview with Rumbold I referred to the memorandum which the Department addressed to the British Embassy and to the observations therein upon the economic clauses of the draft treaty and especially upon article 94. Rumbold replied that the British Government does not agree with our views, and that the Department had been so informed. It is obvious that the Turkish delegates, who have recently applied to Angora for instructions, may be obliged to yield to the Allies in the matter of pre-war concessions of doubtful validity. The Department may wish, therefore, to amplify the instructions contained in its 161 of June 1, and to prescribe the action I am to take, in case there is presented to the conference the draft of a treaty clause in the above sense.

Copies of documents marked "private", in support of above-mentioned French claims, were sent to me today by Pellé on his own initiative.

I have had another conversation with Montagna since the foregoing was written. He told me that during a long interview with Ismet he had urged the Turkish delegate to concede compensation to the French company; should Ismet do so the treaty clause to which we object would be dropped. Montagna seemed more hopeful than during our conversation last night, as he thinks Ismet will discover some solution of that sort. In view of our declaration that we will resolutely support the principle involved, Montagna agrees with me that there is every reason to avoid bringing the matter up in committee.

GREW

867.602/82 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 8, 1923—2 a.m.*

[Received 3 : 47 a.m.]

409. Mission's 406 of June 6. I gathered tonight from Montagna and Pellé that the representations we made yesterday may have produced the effect intended, as they now both express the belief that it may be possible to omit from the treaty the provision concerning concessions which we found objectionable. Today Ismet and Montagna had an interview of nearly four hours. Montagna informs me that, although he is not at liberty to give me a full account of the conversation, he has every reason to believe that the entire question of the concessions will soon be settled to the satisfaction of everyone. He seems relieved.

Tonight Pellé said to me that the only real obstacle to a settlement is the question of payments on the Ottoman debt, and he asked, on behalf of the Allies, if we could not employ our informal good offices with the Turkish delegation, in order to arrange a settlement. Tomorrow it may be possible to accomplish something.

GREW

767.68119P/52 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 8, 1923—8 p.m.*

175. Your 402 of June 6. Suggestion in final sentence of your telegram is entirely approved by the Department which would not wish you to fail to give expression to the deep interest of our people and Government in helping to find a solution of the refugee problem and especially in making provision for the Armenian refugees. You may at your discretion in making such statements refer to the communications sent by the Department on March 31 to the Ambassadors of France, Great Britain, and Italy,[22] and in particular to the paragraph dealing with the Armenian question.

Also there would be no objection to referring to the trip which Colonel Haskell made to Angora and to the discussion which he had there with the Turkish authorities with respect to the possibility of having the refugees return. Of course the trip of Colonel Haskell was made in an effort to help solve the general refugee problem, including not only that of the Armenians but also of the Ottoman Greeks.

You also could make reference to work in Greece on behalf of the refugees, including many Armenians, done by the American Red Cross, and to the work in Turkey, Greece, Syria and elsewhere by the Near East Relief and other American organizations. It would be appropriate for you to state that the problem will depend for its solution upon a spirit of tolerance on the part of the nations directly involved, as well as upon the willingness of other nations to cooperate in any effort promising a constructive settlement of the problem.

It is hoped, as indicated in our telegram of June 1, 3 p.m., that the Turks themselves will appreciate after the conclusion of peace the disadvantages of their present exclusion policy respecting the refugees and will allow those wishing to go back to Turkey to do so.

The Department endorses your belief that any representations in the form of an ultimatum which might have a tendency to arouse

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[22] *Ante*, p. 329.

the opposition of the Turks without gaining practical results would be unfortunate.

See previous statements on December 12 at the 16th meeting of the first commission and on December 29 at the 11th meeting of the subcommittee on minorities, especially last phrase of latter statement.[23]

HUGHES

767.68119/623 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 9, 1923—2 a.m.*

[Received 5 : 34 a.m.]

411. Mission's 409, June 8. I saw Ismet tonight in accordance with request from Pellé. For more than an hour I discussed in a spirit of impartiality and in desire to be helpful the question of payments on the Ottoman debt bonds. Ismet adheres firmly to proposals he has made, which are (1) that the treaty shall not contain any mention of the matter, and (2) that the Turkish Government will deliver to the debt council a formal acknowledgment of obligation to pay coupons in sterling at bondholders' option, but the declaration is to be accompanied by a reservation to pay only in paper francs for a period of 20 years, in consequence of Turkey's financial straits. If the Governments concerned decline this offer, Ismet declared very emphatically that he will break off negotiations and quit Lausanne at once. I made an offer of our informal good offices, to which he replied that there is no time to be lost, that we might be too late tomorrow.

I went to see Pellé without delay and gave him an exact account of my interview with Ismet and added my personal opinion that the latter was quite in earnest, but I was careful to make it clear that I could not vouch for the accuracy of the impressions I had received. Pellé seemed to accept Ismet's statements as genuine, and appeared impressed and perturbed. He told me he feared the reply from Paris would be unfavorable and he seemed uncertain what course to take. He also expressed gratification at our friendly and informal intervention.

I was asked by Ismet whether we would continue to negotiate for a treaty with Turkey if the conference should break up. I said that in that case I should be obliged, under the altered circumstances, to apply for instructions from my Government.

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[23] See telegrams no. 96, Dec. 13, 1922, and no. 165, Dec. 29, from the Special Mission at Lausanne, pp. 920 and 940.

It is my belief that the European powers will not permit the conference to break up.

GREW

867.602/85 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extracts]

LAUSANNE, *June 16, 1923—1 a.m.*
[Received 9 : 11 a.m.]

429. [Paraphrase.] Tonight Pellé gave me a copy of the concessionary clauses which the Allies wish to have incorporated in a protocol to the treaty. Rumbold sent Payne, his economic adviser, to tell me that the second article of the protocol which we consider objectionable is intended to apply to the British interest in the Turkish Petroleum Company as well as to the French interest in the Samsoun-Sivas railway.

. . . . . .

The following is the text or résumé of the clauses as given to me by Pellé: [End paraphrase.]

"1. The concession contracts, as well as the subsequent agreements relating to them, concluded before October 29, 1914, between the Ottoman Government or any local authority on the one hand, and Allied nationals (including companies) on the other, are maintained if they are being carried out or have begun to be carried out.

2. The contracts and agreements concerning which, on October 29th, 1914, all formalities had not been fulfilled, shall, nevertheless be considered as valid and be maintained if they have begun to be carried out or if they have been the subject of arrangements between the Ottoman Government and an Allied Government.

3. The sums due, after the settling of accounts, to the beneficiaries of the said contracts and agreements, on account of the utilization by the state of their property or their services, shall be paid in accordance with the existing contracts or agreements, or in the absence of contracts or agreements, in accordance with the method of appraisement provided for by this protocol.

4. The concession contracts under which work was not commenced before October 29th, 1914, are also maintained.

5. The clauses of subsequent contracts and agreements referred to in the preceding paragraphs shall, by mutual agreement and as regards both parties, be made to conform with the new economic conditions.

6. Failing an understanding within a year's time counting from the coming into force the peace treaty of this day's date, the parties shall adopt provisions which will be considered, as well in regard to the settlement of accounts as to the readaptation of concessions, as suitable and equitable by two experts, whom they shall appoint and who will, in case of disagreement between them, refer to a third expert appointed by the Turkish Government from a list of three per-

sons drawn up by the Chief of the Federal Department of Swiss Public Works.

7. In case the readaptation of the concession contracts under which work was not commenced before October 29th, 1914, should entail for the state an additional charge which no longer corresponds, in the opinion of the experts provided for in the preceding paragraph, to the services which the concession was expected to render the country, those contracts may be canceled upon the request of one or the other of the parties. In case of cancelation the concessionaire shall be entitled, should it be necessary, to such indemnity as the said experts shall deem equitable.

8. The agreements concluded between October 30th, 1918, and October 1st, 1922, between the Ottoman Government and the beneficiaries of the contracts and concessions referred to in paragraph one as well as the transfers of concession contracts effected during that period, shall remain in force until they have been approved by the Turkish Government. In case this approval is not given, each of the concessionaires shall be allowed, if necessary for the actual loss sustained, an indemnity to be fixed by the experts appointed under the conditions indicated in paragraph six. This provision shall be with a view, in respect to contracts prior to October 29th, 1914, to the right of readaptation provided for by the present protocol".

Section 2 of the proposed protocol provides that in territories detached from Turkey as a result of the Balkan wars or under the present treaties the successor states shall, as of the date of the coming into force of treaties effecting the transfer of territories, be subrogated to all the rights and obligations of Turkey toward Allied nationals, and companies controlled by Allied capital, beneficiaries of concessionary contracts made before October 29th, 1914, with the Ottoman Government or local Ottoman authorities. Such contracts are subject to all the provisions of section 1 except those in article 8 thereof. For the rest section 2 reproduces textually article 99 of draft treaty as printed in British Blue Book.

It is proposed to supplement the protocol by a declaration of the Turkish delegation to the effect that the stipulations of section 1 shall apply to Ottoman companies controlled by Allied capital provided foreign capital was preponderant before October 29th, 1914.

GREW

867.602/88a

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Secretary of the British Embassy (Craigie)

WASHINGTON, *June 19, 1923.*

MY DEAR CRAIGIE: Yesterday I brought to your attention [24] reports which the Department had received from Mr. Grew that it was

[24] In a telephone conversation.

contemplated to insert in a protocol to the Treaty of Peace with Turkey a provision to the effect that contracts and agreements between the Allied Powers and Turkey with regard to which on October 29, 1914 all formalities had not been fulfilled should nevertheless be considered as valid and be maintained if they have begun to be carried out or if they have been the subject of arrangements between the Ottoman Government and the Allied Governments. I also referred to the Department's memorandum to the Embassy of March 31st last,[25] particularly to the paragraph which related to Article 94 of the draft treaty handed to the Turks at Lausanne in January last and alluded to our conversation of May 9th [25a] on this general subject.

In this connection I added that Mr. Grew had been instructed to make clear the Department's objections to the procedure contemplated as one which would not only constitute a dangerous precedent for the future but would lead to uncertainty and foster complications in the future commercial relations between Turkey and other powers. Mr. Grew was further authorized to state that this Government was not prepared to acquiesce in the view that the proposed protocol could properly be invoked to impair vested rights of American citizens and that while this Government would be the first to recognize that valid rights should be respected, it finds no adequate basis in precedent and no requirements of justice to support the provisions contemplated.

This matter was brought to the Embassy's attention in this informal manner as it is hoped that a solution may be found, through modification or withdrawal of the objectionable features of the protocol, which will render unnecessary the formal statement referred to above. I may add that Mr. Grew has fully informed Sir Horace Rumbold and his French and Italian colleagues of this Government's attitude in the premises.

Very truly yours,

A. W. DULLES

867.602/89b : Telegram

The Secretary of State to the Ambassador in France (Herrick) [26]

WASHINGTON, *June 23, 1923—12 noon.*

244. [Paraphrase.] Recent telegrams from Grew indicate that it is desirable to give the British, French, and Italian Governments a

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[25] *Ante*, p. 972.

[25a] See memorandum of May 11 by the Chief of the Division of Near Eastern Affairs, p. 1005.

[26] See last paragraph for instructions to repeat to London as no. 152 and to Rome as no. 57.

clear idea of our attitude with respect to the concessions clauses in the proposed protocol to the peace treaty between the Allies and Turkey. At an early opportunity, therefore, you should orally inform the Government to which you are accredited concerning this matter.

There is quoted below for your information and guidance pertinent parts of the Department's telegram to Lausanne [27] instructing Grew to make a statement along the following lines if the Allies should insist upon the features to which we object in the protocol regarding concessions: [End paraphrase.]

"My Government's attention has been called to the proposal to include as a part of the general peace settlement a provision apparently intended by the proposers to secure the validation of uncompleted concessionary claims and to secure the recognition and completion of preliminary negotiations for contracts and concessions. In conversations with the heads of the various delegations the American representative has already expressed the view that the procedure contemplated would constitute a dangerous precedent for the future while the vagueness of the terms of the proposed provisions would lead to uncertainty and foster complications in the future commercial relations between Turkey and other powers.

The attitude of my government in regard to a provision of the nature proposed was clearly expressed in a memorandum communicated to the British Embassy in Washington on March 31 last [28] in which, in referring to the provisions of article 94 of the draft treaty,[29] the following statement was made.

'It is felt that this provision, if incorporated in a treaty between the allied powers and the Ottoman government, might possibly be invoked by interested parties as confirming or validating claims to concessions which had not in fact been granted and finally approved by the Ottoman Government prior to October 29, 1914. This government considers that it would be unfortunate for the allied powers to insist upon the insertion in the treaty of any provision designed to confer upon allied nationals, with respect to concessions which prior to October 29 1914 were the subject of conventions contracts or decisions, rights more extensive than those which were acquired under or by virtue of the conventions contracts or decisions in question'.

Turkey as any other sovereign power is qualified to give through the procedure sanctioned by its laws, subject to such rights as have already vested, such rights and concessions to foreigners as it may choose, whether through the provisions of a treaty or otherwise. This is fully recognized. However I am instructed to state that my government is not prepared to acquiesce in the view that general provisions of the nature suggested could properly be invoked to impair vested rights of American citizens.

My government would be the first to recognize that valid rights should be respected and that under certain circumstances work performed in good faith may justify a consideration due in equity if not in law, but it finds no adequate basis in precedent and no requirements of justice to support the provisions which are contemplated."

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[27] No. 186, June 16; not printed.
[28] *Ante*, p. 972.
[29] See Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 735.

In making your oral representations to the Foreign Office you should closely follow the text of this statement which the Department has authorized Grew to make in the case that the objectionable features of the protocol are not eliminated.

[Paraphrase.] It was the Department's particular desire, in instructing Grew as above, to deal with the contingency that Great Britain might endeavor to validate the Turkish Petroleum Company's alleged concession by invoking the proposed protocol. The desire to strengthen French claims under the alleged contract for a Samsoun-Sivas railroad without doubt influences the French Government in its support of the protocol. As yet the Department has not been given sufficient evidence to properly judge the strength of the French claims under this contract, but your attention is invited to the expression of our views in the above statement that work done in good faith may under certain circumstances justify a consideration which is due in equity if not in law.

It should be noted that in taking this stand the Department is not moved by a desire to give its support to any one particular American interest, e. g., the Chester project, but to preserve a principle and to place the proper protection of Americans on an adequate basis.

According to Grew's reports the British have been unyielding in their attitude on this question. Grew reports that the French, although more conciliatory, probably will also insist upon the protocol in exchange for concessions which the Turks may force them to make with respect to the currency to be used in paying the Ottoman debt. Apparently the Italian delegate has tried in every way to help Grew to reach a satisfactory settlement.

Telegraph report on result of your representations.

Repeat this telegram to London as our 152 and to Rome as our 57 for similar representations. Refer to our 147 of June 20 to London [80] and 52 of the same date to Rome.[80] [End paraphrase.]

HUGHES

767.68119/647 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 27, 1923—10 a.m.*
[Received June 27—9:47 a.m.]

465. . . . The right moment seemed to have arrived to make the full weight of our influence felt against the provisions of the second article in the protocol on concessions. Accordingly I went to see Montagna, who is chairman of the third committee, and afterwards

[80] Not printed.

in turn Pellé, Rumbold, and Ismet, and again I took occasion to explain precisely and forcefully the position of the United States, as defined in telegram 198 of June 25 from the Department.[81] It is plain that our view has the entire sympathy of Montagna, so far as the general principle is concerned. But he seems to think that in the matter of compensation for the Samsun-Sivas railway the French have a strong case. I received the clear impression that Pellé would be glad to accept the principle of compensation as a substitute for the clause to which we object. When I pressed Rumbold in argument he took refuge in the vague declaration that their companies must have protection. It seems to me that the British are quite aware that their position is not altogether sound.

In the beginning Ismet seemed to waver somewhat. He found fault with the Allies for complicating the question of the concessionary clauses with other issues, and declared that he would be in a very embarrassing position, if, after all, peace should hinge upon his assenting to the objectionable clause. We discussed the question for 30 minutes, and I expressed to him my own conviction that the problem could be brought to a satisfactory solution if he would take his stand firmly on the principle. He seemed to take comfort from my assurances, and toward the close of our interview he gave me a positive pledge to stand firm. When I enquired whether I had his permission to report his statement to the Department, he gave his consent.

For the sake of keeping our position quite clear and candid I had already told each of the other chief delegates that I intended to confer with Ismet and what I proposed to say to him.

In personal conversations I am making a reservation as regards our position on the other concessionary clauses, and have explained that we must be guided by consideration of their practical applicability.

I learned tonight from Montagna that in one quarter at least my representations had taken effect. There are grounds for supposing that he had Pellé in mind. It is evident that the Allied Governments have notified their respective delegates of the representations made at the Allied capitals by the Department.

There is apparent a mood of optimism here over the general situation and an expectation of an early settlement. It is expected that Pellé will receive additional instructions from his Government tomorrow by which it is generally hoped that the question of the Ottoman debt will arrive at a satisfactory solution. The common opinion is that it will take a week to prepare for the signatures after the three questions still pending have been settled. A notification will be sent to the Russian Government in case it should wish to accede to the

[81] Not printed; it gave substance of telegram no. 244, June 23, to the Ambassador in France, *supra*.

convention of the Straits. The treaty will be signed at Lausanne by Curzon and Garroni but not by Bompard or Barrère for France.

GREW

867.602/91 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *June 27, 1923—2 p.m.*

[Received June 27—12:48 p.m.]

467. Our 465, June 27, 2 [*10*] a.m. Rumbold sent me this morning the revised text of the protocol on concessions as submitted to the Turkish delegation. It begins with the following preamble:

"The British Empire, France, Italy, Japan, Greece, Roumania, the Serb-Croat-Slovene State and Turkey, animated with the same desire to maintain and to regulate their relations and those of their nationals in accordance with principles of equity and of respect for reciprocal engagements, have agreed upon the following dispositions."

The only other important modification is in article 2 which now reads as follows:

"Contracts and agreements in regard to which, on October 29, 1914, all formalities had not yet been fulfilled shall, nevertheless, be considered as valid and maintained, if by common consent they have begun to be carried out or if they have been the subject of arrangements between the Ottoman Government and an Allied Government involving an advantage for Turkey."

I said to Payne, who handed me the revised document, that I should submit it to my Government but that I did not personally believe the modifications in article 2 were such as to remove our objection to the principle involved therein.

GREW

867.602/91 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 28, 1923—6 p.m.*

207. Mission's 467 of June 27. View which you expressed to Payne that proposed change in article 2 does not satisfy our objections as to the principle involved has the Department's approval. If the protocol is adopted with the changes which you indicate, you should, therefore, make the statement transmitted in our telegram 186 of June 16.[82]

HUGHES

[82] Not printed; see telegram no. 244, June 23, to the Ambassador in France, p. 1023.

767.68119/651 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 28, 1923—12 p.m.*
[Received June 29—7:43 a.m.]

470. Our telegram 465 of June 27. The instructions received by Pellé have not served, as expected, to clear the atmosphere. In fact the contrary is the case. The French Government favors sending Ismet a definite ultimatum which does not present any material concession by the Allies. It is the desire of the British and Italians to avoid extreme measures and to investigate every possibility for a compromise. Late tonight Ismet is having separate conferences with Montagna and Rumbold. The barometer of the conference, which is sensitive and rapidly varying, has receded considerably from the high point attained the day before yesterday.

GREW

867.602/99 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 7, 1923—5 p.m.*
[Received 7:01 p.m.]

510. Your telegram 218 of July 5.[33] Last night and today I have had two long interviews with Ismet Pasha during which I repeated the various observations as to the objectionable nature of the second article of the draft protocol on concessions which I had already advanced again and again. Today I also told him that if the objectionable provision is adopted the Department would consider it necessary frankly to tell American business men inquiring as to the prospect of engaging in business in Turkey that the peace settlement contained a provision which the Department believed might lead to a great confusion of claims and that the Department found it difficult to determine the extent to which Turkey had thereby limited her freedom of action. I also indicated to Ismet that if Turkey's economic policy is to be controlled by the principle contained in the second article of the protocol it would be useless for the Turks to expect the same interest on the part of American citizens in economic ventures in Turkey.

Ismet noted these representations fully.

GREW

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[33] Not printed; the representations here reported contain the substance of the Department's instructions in the telegram under reference.

867.602/100 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 7, 1923—6 p.m.*
[Received 11:30 p.m.]

511. Our telegram 510 today. I have received the following information regarding a private meeting this morning of the three chief Allied delegates. Rumbold stated that he was willing to drop the second article of the protocol on concessions in case compensation should be given to Vickers-Armstrong Company in some form. He did not indicate that he was greatly interested in the protection of the Turkish Petroleum Company, seeming to feel that this was a subject which would be covered by the allocation of Mosul to Iraq. On the other hand Pellé firmly supported the second article on the ground that he had failed to gain compensation for the alleged former concession for a Samsoun-Sivas railroad. This afternoon, therefore, the three allies will present a solid front to Ismet when the meeting opens.

Ismet and I were together until late last night and also today until the last moment before the meeting this afternoon. In order to hold him to his position I took an even stronger stand than before. I have made clear to the Allied delegates in my conversation with them that any such provisions as are contained in the second article have my unalterable opposition.

Now apparently the Allies are viewing their concessions from the point of view of separate business concerns. A solution may therefore be arrived at by giving such companies appropriate compensation. There are good prospects for a successful outcome of our fight.

GREW

867.602/98 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 8, 1923—5 p.m.*
[Received July 9—12:27 a.m.]

513. I have learned that this morning at the meeting of the Turkish and Allied experts there was favorable discussion of a proposal to delete the second article of the draft protocol on concessions and to replace it with the following provisions:

1. The "juridical" validity of the French concession made in 1914 to be confirmed by Turkey and compensation to be given to be determined if necessary by arbitration.

2. The Vickers-Armstrong Company to be compensated by Turkey for work which it had actually undertaken.

3. The alleged Turkish Petroleum Company concession to be confirmed by Turkey.

Although the report which I received of the discussion and the phraseology of the three points mentioned above was somewhat vague and hasty, I was afraid that Rumbold and Ismet might have entered into a private arrangement by which the latter would agree to satisfy the Turkish Petroleum Company's claims as a return for British support on the issue regarding Ottoman debt coupons. . . .

On this account I went to Ismet before his private meeting this afternoon with the chief Allied delegates, and led him in the course of the interview to make the categorical statement that the valid rights which American citizens or companies have in Turkey would not be prejudiced in any manner by any steps he might take at Lausanne. I have made this statement a matter of record in our Mission files. I hope to obtain soon more definite information with respect to the three points listed above.

GREW

867.602/101 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract—Paraphrase]

LAUSANNE, *July 10, 1923—1 a.m.*
[Received July 10—10:15 a.m.]

518. Mission's telegram 513 of July 8. I have been informed that Rumbold made the statement at the private Allied meeting yesterday that the second article in the draft protocol on concessions had been eliminated out of deference to the attitude of the United States. The Allies late last night handed Ismet a substitute article along the lines roughly indicated in our telegram under reference. . . .

. . . . . .

GREW

867.602/101 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 10, 1923—8 p.m.*

232. Mission's 518, July 10. Referring to proposed paragraph (*b*), article 2, of modified text.[84] While from American point of view Montagna's suggestion is correct that Said Halim's letter of June

[84] The draft text of paragraph (*b*), as reported in telegram no. 518, July 10, from the Special Mission at Lausanne, read as follows: "The rights granted in 1914 to the Turkish Petroleum Company, Limited, are valid and maintained."

28, 1914,[35] does not legally constitute a grant, yet we cannot accept further his deduction that the proposed phraseology leaves American interests unprejudiced. The allusion to the rights of the Turkish Petroleum Company alleged to have been accorded in 1914 would be meaningless except as an attempt to get a confirmation of those rights. The intention and serious purpose of the parties to a treaty furnish the basis upon which the treaty must be construed. In view of the known facts and claims, therefore, if we contend that the proposed clause would be inoperative for want of recognized rights, when its plain meaning is to confirm rights, we should be putting a construction upon the clause which it would be difficult and unpleasant to maintain. We shall be greatly embarrassed in maintaining later on that the Turkish Petroleum Company's claims have not been validated, in so far as they can be validated by Turkey, if after the position we have taken and after our discussions we now make no objection to this clause. It seems necessary, therefore, to make objection and reservation.

Since the proposed clause frankly proposes to validate the alleged concessions to which we have constantly objected, this does not appear to be a genuine effort to meet our views. In objecting to a clause validating the rights of the Turkish Petroleum Company we are simply consistent, since for three years we have contested those alleged rights. I see no reason, therefore, for hesitating to make our position known. If we now fail to state our objections, we should certainly appear either to have been taken in by Montagna's well-meaning sophistry or to be relinquishing our former position.

The Turkish Petroleum Company's alleged rights have been in dispute for so long that if the British are now successful in getting them validated that success would inevitably be regarded as an important diplomatic triumph. Such victory should not be won by our own surrender, and any reservation we make should be contrived as effectively as possible.

It would not suffice to limit our reservation to the protection of the vested interests of Americans in Turkey. For, unless the British give up their position in Mesopotamia and return that territory to Turkey, it is expected that the boundaries of Turkey will be so constituted as to leave outside of Turkish territory some of the important rights claimed by the Turkish Petroleum Company. Moreover, this Government has objected to the Turkish Petroleum Company's concession as monopolistic in its application to Mesopotamian oil lands. This Government has steadfastly held, therefore, that the British Government is not entitled to a monopoly of the fruits of a

[35] Quoted in note of Nov. 17, 1921, to the British Secretary of State for Foreign Affairs, *Foreign Relations*, 1921, vol. II, p. 89.

victory to which American arms have contributed, and to secure now monopolistic privileges for the Turkish Petroleum Company to the exclusion of American enterprise.

It has been from the beginning this Government's contention that the letter of Said Halim does not constitute a grant of rights to the company, and that the question now under consideration is a question of new rights to be acquired through confirmation or otherwise. Accordingly, the United States has objected to monopolistic rights acquired to the exclusion of its own nationals in Mesopotamia, for although this country was not at war with Turkey, yet Turkey's defeat was only made possible by America's contribution to Germany's defeat. This view was clearly presented by the Government of the United States in its correspondence with the British Government, and the British Government has conceded that it was not prepared to claim and would not claim any right to lay disabilities on citizens of the United States on the ground of the Allied victory over Turkey and the consequent British control of territory detached from the Ottoman Empire. In a note to Ambassador Harvey from the Foreign Office, dated 29th December, 1921,[36] the British Government disclaims any wish to question the statement of the United States Government that the victory over Germany, in which the United States had participated, was in turn a contributory cause of the victory over Turkey. The British Government also emphatically disclaimed any intention to deny complete equality of commercial opportunity to American citizens or to exercise any discrimination against them. Having made this disclaimer, the British Government would not now be in a position to press for new rights which would exclude American citizens from the enjoyment of just and equal opportunities in regions such as Mesopotamia, that is to say in regions which have been, and still remain, detached from the Ottoman Empire. The question now turns, therefore, upon what rights may have been acquired earlier by the Turkish Petroleum Company. This Government has steadily maintained that no original rights inhere in the Turkish Petroleum Company. Now, however, an attempt is being made to render the American contention unavailing through a confirmation of the company's rights in a treaty with Turkey, and it can then be claimed that the original grant has been validated anew. It is difficult to discover any other motive for the British attempt to obtain by treaty the confirmation of an alleged grant in territory no longer within the boundaries of Turkey. If the successor of the Ottoman Empire can be brought to confirm what is alleged to have originated under the Empire, it will then be possible to refute the American contention that the con-

[36] *Foreign Relations*, 1921, vol. II, p. 115.

cession is invalid and also to avoid the embarrassment of obtaining a new grant in Mesopotamia contrary to the principle which the United States has advanced and Great Britain has accepted.

Mention may also be made of a letter of April 30, 1923, from the British Ambassador at Washington to the Secretary of State.[37] It is suggested therein that it might be useful if the Secretary could bring to the knowledge of those interested in the Chester project that Mesopotamia is not within the jurisdiction of the Angora Government which cannot therefore make grants in Mesopotamia. The Ambassador also expresses the hope that the Secretary will take occasion to make plain to those concerned that the British Government cannot recognize the validity of grants made by the Angora Government in Mesopotamia.

It would be difficult to reconcile these statements with any proposal to make, through the treaty with Turkey, a new grant to the Turkish Petroleum Company, and such a proposal must appear as an attempt by Great Britain to reach its ends by having the original grant validated.

A reservation should be made, therefore, containing the following points. First, that this Government objects to any arrangement relating to the Treaty of Peace which would impair the vested rights of American nationals in Turkey by an attempt to confirm the alleged rights of the Turkish Petroleum Company. Second, that since the alleged rights of the Turkish Petroleum Company refer to areas in Mesopotamia, and since this Government considers that the Company's claims have no basis in any proper grant, the Government of the United States objects to and will be unable to recognize as valid any arrangement or agreement, relating to the treaty of peace, which attempts to confer upon the Turkish Petroleum Company rights which would prevent American nationals from enjoying the just and equal opportunity to which they, as well as British or other Allied nationals, are entitled in regions in any manner received or held as the fruit of a common victory.

There has been no opportunity to draft a formal reservation owing to the press of time. If circumstances should require you to act immediately you may state the views of this Government in the sense of the present instruction, and a written statement can be presented later on. The Department should be informed promptly of the course of events and of the time and manner which, in your opinion, should be chosen for presenting our reservations in writing.

Clause (*c*) is intended to cover the Samsun-Sivas railway, which is in a somewhat different case. No objection is raised to this clause on condition that it is understood first, that there is no prejudice to

[37] *Post*, p. 1208.

the present rights of Americans and that consequently any dispute which may arise will be decided by the equities of the case; second, that any vested right of an American national will not be impaired by the new concessions which may be granted in the alternative under this clause; and third, that it is not intended to give preference to the Régie Générale des Chemins de Fer in any concessions for constructing or exploiting one or more parts of the Black Sea System, but simply to assure the Régie that it will be given an opportunity to submit bids on an equal footing with other interests.

Since the Chester project relates only to areas on each side of the proposed railway lines, it is not deemed to be monopolistic. It should also be borne in mind that this Government is unable to alter the position it has taken upon questions considered above even though negotiations are pending for an arrangement between American interests and the Turkish Petroleum Company. The arrangement contemplated might mitigate the monopolistic nature of the enterprise if it admits adequate American participation in such way as to be considered consistent with the principle of the open door. Nevertheless the concession must be dealt with according to its present status and without regard to a possible arrangement. This Government has always contended that either a new, valid, and nonmonopolistic concession should be obtained, or the old one retained only after it has been validated on such terms as would remove this Government's objections.

This Government's desire is, of course, to exclude the clauses with the objectionable features as reviewed above. You should, therefore, endeavor to obtain their rejection, and not simply confine yourself to recording your reservations and objections after adoption of the clauses.

In regard to Vickers-Armstrong concession, the Department is not sufficiently informed to express an opinion.

HUGHES

867.602/103 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 12, 1923—3 a.m.*

[Received 6:07 a.m.]

525. Your 232, July 10, 8 p.m. In a conference tonight with Rumbold I strongly presented the objections which the Department has indicated to the proposed provision concerning the alleged rights of the Turkish Petroleum Company. Rumbold told me that his instructions were definite and that he could not depart from them.

He said that of course he would report to his Government the representations which I made. He expressed some surprise on learning that arbitration of the issue had ever been suggested by us. The Department may desire to emphasize this point in further representations at London.

After my conference with Rumbold I saw Ismet. He again told me that owing to its phraseology he and his experts considered the above provision harmless, but that he had requested his Government to send him instructions and that when they were received he would be guided by them.

Referring to the line from Samsun to Sivas, Ismet said that the impairment of any vested American rights now or in the future would be prevented by Turkish law. He contended that it would therefore not be appropriate to have this specified in the treaty. He stated that he had been given definite instructions to refuse any provisions in the protocol giving preference to the Régie Générale and Vickers-Armstrong Company in case of future concessions and that they would insist upon the withdrawal of such provisions.

The Allies abandoned their original vague and dangerous provision regarding the confirmation of claims only after we had made repeated representations along the lines which the Department indicated. I shall continue to make every possible effort to secure the withdrawal of the present objectionable clause and I shall not fail in case of necessity to make a full statement in committee.

GREW

767.68119/690 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *July 17, 1923—3 a.m.*
[Received 7:40 p.m.]

538. At final private meeting which lasted until 1:30 this morning agreement was reached on all outstanding questions. Final meeting[s] of all three committees are to take place at 5 o'clock this afternoon.

Revised text of concessions protocol just received contains none of the features to which we have objected. No reference is made to Turkish Petroleum Company but I am informed that Rumbold reserved the right to make a declaration in the final committee meeting to the effect that England will take charge of the company's interest.

Ismet objected and said he would reply to any such declaration. I shall be prepared to make appropriate statement if necessary.

The provisions in draft of protocol reported in my 518, July 10, 1 a.m.[38] regarding priority in future concessions are replaced by letters to be addressed to Régie Générale and Vickers-Armstrong Company by Turkish Government. The letter to the Régie which I am told is substantially identical with that to Vickers-Armstrong Company is as follows:

"It is understood that if within five years from the date of the signature of the treaty of peace the Turkish Government should propose in whole or in part to put into effect the construction or assure the exploitation by means of contracts to be made after that date of one or several sections of the Black Sea system by calling on foreign industry or capital, it would inform the Régie Générale and would put it in a position to enter into competition on a footing of complete equality with any other person or company."

Evacuation question also settled. Allied military and naval forces will evacuate within six weeks of ratification of the treaty by Turkish Government but each of the three Principal Allied Powers will be permitted to retain one cruiser and two destroyers in the Straits until the Straits convention goes into effect, but not later than December 31, 1923. Decision of passage of ships through the Straits is maintained for the same period.

GREW

767.68119/691 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *July 17, 1923—midnight.*
[Received July 18—9:45 a.m.]

539. Our 538, July 17, 3 a.m. Final meetings this afternoon first, second and third committees. The topics of the protocol of evacuation, declaration of amnesty, Ottoman debt, and concession protocol were successively discussed.

. . . . . .

As final topic before first committee Rumbold read a statement in respect to immediate and complete application of the declaration of amnesty and the application of the same in respect to the Armenians. His statement was chiefly concerned with those other subjects who had supported the Allied occupation. The French and Italian delegates associated themselves with Rumbold's statement and added a plea on behalf of the Armenians. When they had concluded their remarks, I made the following statement:

"We are at the close of a conference which it is confidently expected will inaugurate peace and cooperation throughout the Near East; the problem now under examination is the last problem to engage the

[38] The provisions as reported have been omitted in the extract printed on p. 1030.

attention of the delegates. As such and also because it intimately affects many thousand[s] of people, the solution given to this problem will receive the widest public attention; it will acquire indeed a special significance and will serve to characterize the spirit and accomplishment of the conference in the minds of many persons who know little or nothing of the other difficult and intricate questions to which a suitable answer has been found. The present moment therefore calls for generosity, for an assuring expression which shall declare the spirit in which the new Turkish Government purposes to conduct its affairs.

His Excellency Ismet Pasha has spoken at a previous meeting of practical difficulties in the way of the constructive solution which it is so desirable should be found in the present case. Such difficulties may exist but I believe they can be examined and resolved in the light of the words which His Excellency himself spoke before this conference on December 13 last.

'The Turkish delegation is firmly convinced that peace will bring about the disappearance of such causes of suffering as were of a political character, without prejudice to Turkey. Armenians will then be enabled to cooperate wholeheartedly in healing the wounds inflicted on them by the war. The Armenians who desire to remain in Turkey will be able to live in brotherhood with their Turkish compatriots who will be full of solicitude for them and will willingly forget the events of the past.'

My Government does not doubt that these words will be given the practical effect which it is but reasonable to expect, having in mind the representative character of the person who spoke them and the circumstances under which they were spoken.

Every problem has its solution. We urge that the solution of this problem be not delayed. We urge that Government of the Grand National Assembly, fully cognizant of the obligations no less than the privileges of its sovereignty, proceed without delay to a wise and tolerant adjustment which, having in mind the best interests of the Turkish States, shall at the same time give sympathetic consideration to the interests of these homeless exiles. And we urge that while this adjustment is in progress adequate measures be taken to safeguard the homes and property of all of its citizens without distinction of creed. The American Government and people have given practical and constructive evidence of their rightful interest in this problem and they, no less than the other nations here represented, will confidently expect equally practical and constructive measures on the part of the Government of the Grand National Assembly to remove this problem from the realm of international anxiety and concern."

In response Ismet stated that Turkey would apply the amnesty provisions with the same promptness and sincerity as the other countries. He added that the Turkish delegation would adhere to desire of the Allies that it be put into effect at once and he guaranteed that Turkey would apply it sincerely. In respect to the Armenians he stated that the return of the Armenians who had left Turkey at different epochs was a wholly separate question from the amnesty provisions which concerned only persons now inhabit-

ing Turkey. The return of peaceable persons would not thereby be prevented although he refused any general engagement.

The meeting of the second committee followed immediately and was concerned chiefly with the question of the payment of coupons of the Ottoman debt. . . .

Meeting of the third committee followed. The delegates were asked to accept the protocol on concessions reported in my 538. Rumbold read a statement to the effect that although no mention was made of the Turkish Petroleum Company, none the less he desired on behalf of his Government to assert categorically that the British Government maintained the rights acquired by that company by agreement with the Ottoman Government in 1914. He described Ismet's alleged acceptance of this in principle and his refusal later to accept any formula in that connection. Ismet replied that the rights of this company constituted a judicable question and added that he had qualified his original acceptance with the statement that he must refer it to his Government. He added that his later suggestion was that the question be referred to arbitration and that this final declaration of the British Government did not engage Turkey in any way in the future. At this point I made the following statement:

"I do not consider it necessary to make a detailed statement in this connection. I may, however, express the gratification of my Government that a way has been found to solve the difficult question of concessions. As regards the provisions of the protocol affecting the Régie Générale and the Vickers-Armstrong Company, I take it for granted that these provisions will not be applied in such a way as to prejudice vested rights of American citizens or companies. As regards the rights said to have been acquired by the Turkish Petroleum Company before the war I deem it sufficient to refer to the correspondence with the British Government during the past three years in which my Government has fully set forth its point of view [which] has not changed."

In his reply Rumbold did not accept the suggestion of arbitration and concluded with the remark that he did not understand why a third party should interfere in a dispute between the Ottoman Government and a British company.

The Japanese delegate thereupon made a brief statement of the application of the principle of the Open Door to Turkey despite the fact that his Government had no interest in concessions in that country. The discussion of concessions stopped here.

Some congratulatory remarks were made by the several delegates and I made the following statement:

"The successful conclusion of the Lausanne Conference has now been achieved. It is too early doubtless and we are too close to the stress and turmoil of negotiation to value the result secured at its true worth in all its many beneficial aspects. But we need feel no

hesitation in describing this result as momentous. A long period of warfare and disturbance affecting the whole of the Near East has been brought to a close; the problems of great difficulty and intricacy have been solved through the patience, moderation, and the conciliatory spirit of the delegations; we can now look forward with confidence to the coming period of reconstruction when the ideals of peace and tolerance which have inspired the deliberations of the conference will receive a long and fruitful application.

The United States welcomes today's achievement and on behalf of my Government I have the honor to express to the delegations here assembled sincere congratulations upon the successful outcome of their labors."

Repeated to Constantinople.

GREW

767.68119/696 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract]

LAUSANNE, *July 19, 1923—11 p.m.*
[Received July 20—12 : 24 a.m.]

543. . . .

The secretary general has inquired whether I shall sign the final act. He states that it is not necessary but he believes it would be desirable on the ground that we have taken a representative part in meetings of the conference. No commitments or engagements are involved.

If the Department desires me to sign I respectfully request authorization to do so. Full powers are not necessary for the purpose.

GREW

767.68119/696 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 20, 1923—7 p.m.*

249. With reference to the Mission's 543 of July 19, since the United States is not a party to the treaties and has no part, therefore, in the disposition to be made of them by deposit or otherwise, and since the "final act" is in form a protocol describing the proceedings which have resulted in the treaties between Turkey and the Allies and providing for what shall be done with those instruments, it does not seem fitting that the final act should be signed by the delegate of the United States. The Department's response to the original invitation defined for you a special position at the confer-

ence, which should also be borne in mind. In order that your failure to sign may not be misconstrued you may refer informally to the fact that the United States is not a party to the treaties, the disposition of which is provided for in the protocol. You should, however, communicate with the Department immediately if there seem to you special reasons why you should sign.

HUGHES

NEGOTIATION AND SIGNING OF A GENERAL TREATY AND AN EXTRADITION TREATY BETWEEN THE UNITED STATES AND TURKEY

767.68119/141 : Telegram

The Ambassador in Italy (Child) to the Secretary of State

[Paraphrase]

ROME, *November 15, 1922—8 p.m.*
[Received November 16—6:30 a.m.]

226. Ranking Turkish delegate, Djellal ed Din Bey, a former president of the National Assembly, and very influential at the Genoa Conference, called upon me informally on his way to Switzerland. His views are set forth below:

1. He stated that the determination of the Turks to abolish the capitulations is based on a sense of humiliation and on dissatisfaction with the working of the capitulatory system, particularly in tax immunities. He supposed, however, that any friendly power would receive fully satisfactory guarantees in place of the capitulations.

2. He stated that the practice of conceding, either explicitly or implicitly, zones of influence had been initiated by the old government of the Porte, but that out of self-respect Angora and the Assembly would oppose similar grants, and that a Turkish representative who might venture to negotiate anything of the sort would be severely dealt with.

3. He declared positively that the Angora Government would duly confirm and enlarge all guarantees either now or formerly enjoyed by the United States on behalf of the Missions and religious enterprises of its nationals.

4. He stated that the question of minorities was delicate and troublesome. Minorities often stirred up resentments, and were occasionally encouraged to do so by foreign machinations. But he warmly invited suggestions from the United States.

5. Rumors set afloat by the British had excited general apprehension by misrepresenting the measures and policies of the Angora Government regarding Constantinople. He alleged that there were indications that the British were encouraging agitators, most of them Armenians.

6. He intimated that Slavs and Turks might be forced into cooperation on basis of hostility to Great Britain if the British opposed certain demands at Lausanne.

7. He stated that he could not conceal his Government's urgent need for a friendly attitude in the United States toward Turkey's financial problems.

In reply I said that he could judge for himself what might be the present attitude of the United States by taking into account the familiar American policy of the Open Door as opposed to special favors, and by considering what might be the effect upon American opinion, now and later, of moderation in Turkey's demands and of a sympathetic solicitude that Americans should be as well protected in Turkey as on American territory. I intimated that the course of the peace negotiations would have an important bearing upon the future relations of our two countries.

CHILD

767.68119/157 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 19, 1922—7 p.m.*
[Received November 19—6:39 p.m.]

1. Curzon and Mussolini engaged in preliminary conversation with Poincaré after his arrival late today. Preparatory arrangements usually made by secretariat have been omitted, and delegates will enter conference tomorrow without particular knowledge of situation. Even those delegates of the inviting powers who were not admitted to secret conversations in Paris are imperfectly informed.

Request that Department will indicate how far it will go in leaving to our discretion to engage in preliminary and informal discussions with Turkish delegates tending toward basis for treaty after recognition of Angora. Further overtures may be expected to follow upon first conversation as reported from Rome. Advances could be met sympathetically but without committing our Government; and Turks might be influenced to moderate demands on other powers and to be favorably disposed toward American interests if they see prospect of mutual profit.

CHILD

767.68119/157 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *November 20, 1922—7 p.m.*

3. Your telegram no. 1 of November 19. There is no objection to your having informal preliminary conversations, at your discre-

tion, with Turks or any others. You should, of course, keep in mind that you are not authorized to make any commitments except on instructions from the Department.

HUGHES

711.67/30 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *November 29, 1922—4 p.m.*
[Received 9:34 p.m.]

37. This morning in a conversation with Child, Ismet showed haste and eagerness to begin preliminary negotiations with respect to a treaty between Turkey and the United States. The Turkish delegation evidently desires some degree of assurance that we will be willing to start negotiations if peace is signed or if the present conference negotiations fail. Child informed Ismet that any prospect of negotiations with us must not be used to affect the negotiations now taking place, that we would not hesitate to state our various positions but for the present would make no commitments, and that we would be pleased to receive any groundwork for a treaty which the Turks might care to offer for our consideration. We realized the delicacy of our position in this matter and stated to Ismet that we would not hesitate to make our present attitude known to the Allies. This we have done. You may deny a report of any deviation from this plan of action should such a report become current.

From the conversation with Ismet it is evident that the Turks are less optimistic of obtaining peace. This is due to the recent turn of events, including perhaps the situation in Greece, by which the British are released from some responsibilities and which indicates a new stiffness in the British attitude.

AM[ERICAN] MISSION

711.672/4 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *December 22, 1922—11 a.m.*
[Received December 23—6:05 p.m.]

143. Belief that the Turks incline to show favor to Americans participating in concessions is strengthened by confidential interview with Riza Nour Bey, second Turkish delegate. They fear, however, that we will not move promptly enough in the matter. Riza Nour intimated that it is desirable to conclude a treaty as soon as possible;

he even suggested that for our own sake we ought to sign a treaty before the Allies sign theirs. When he was told that our present intention was not to sign first, he replied that the Open Door would be reserved for us in any case whenever we wished to avail ourselves of it, but he made it very clear that early applicants would take precedence over later ones. Child has been told by Ismet that it is because American enterprise is not concerned in politics that it is preferred by the Turks.

AM[ERICAN] MISSION

711.672/6a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 8, 1923—5 p.m.*

78. Since the drafting of the treaty between Turkey and the Allies seems to be approaching completion, the Department would be glad to have from you specific recommendations as to whether it would be desirable that we enter upon direct negotiations with the Turks as soon as they shall have received the Allied draft.

A treaty of amity and commerce between ourselves and Turkey should provide for the resumption of diplomatic and consular relations, for most-favored-nation treatment, and for any matters of particular interest to either of the two countries. Following the precedent of the treaties we have recently made with the Central Powers, our treaty with Turkey could refer specifically to sections of the treaty between Turkey and the Allies with a provision that the United States and its citizens shall enjoy all rights conceded to the Allies.

HUGHES

711.672/7 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 12, 1923—6 p.m.*

[Received 7:45 p.m.]

194. Referring to Department's 78 of January 8. It is our belief that we should gain a great advantage by beginning as soon as possible the discussions of a treaty of amity and commerce with the Turks. Our reasons are as follows:

(1) Obstacles to making a treaty will be removed by a conclusion of peace between the Turks and the Allies, which now appears probable.

(2) There would be nothing inappropriate in beginning discussions for our own treaty at the same time that the Allies and Turks are negotiating their treaty.

(3) Ismet Pasha has in various ways intimated that he would welcome an exchange of views.

(4) The prospect of a treaty with us which would appear advantageous to Turkey would encourage the Turks to make peace with the Allies, since Ismet understands that we will not sign before he has made peace with the Allies. This seems to us a very important consideration.

(5) The sooner we make a treaty with the Turks after peace is concluded between the Turks and the Allies the less risk there will be that our interests or our negotiations for a treaty will be injured by the intrigues and competition of other powers.

(6) The activity of the other powers in commercial and other relations with Turkey will naturally be stimulated by the conclusion of a treaty between Turkey and the Allies. Our own citizens will be put under a handicap if we do not take action before this rivalry gets under way, and the Turks may even try to exact concessions from us on the strength of our inferior status.

Should these views receive the approval of the Department we should be glad to have a summary of the treaty terms which the Department considers desirable, and it would be helpful to us to know that drafting experts and other necessary additions to our staff will be available. If it should seem desirable to maintain an attitude of reserve we solicit the Department's permission to delay negotiations.

AM[ERICAN] MISSION

711.672/7 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 13, 1923—5 p.m.*

83. The recommendations contained in your 194 of January 12 regarding the discussion of a treaty of amity and commerce with the Turks have the approval of the Department. You will receive more precise instructions. In the meantime you are authorized to approach the Turkish delegation informally in the matter and to report to the Department how your advances are received.

HUGHES

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711 672/8 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *January 15, 1923—1 p.m.*

[Received 2 : 15 p.m.]

195. Referring to 83 of January 13 from the Department. During a conversation on general topics with Ismet yesterday we mentioned

to him indirectly and cautiously the question of initiating discussions looking toward a Turkish-American treaty of amity and commerce. Ismet said positively that he was ready to begin the discussions at any time, preferably at once. To which we replied that we should keep the matter in mind, but that we would not consider it desirable to begin the negotiations until there is a definite prospect that a treaty of peace will be signed between Turkey and the Allies. It is probable that the situation will be clarified by the events of the next few days and we shall report our views promptly to the Department.

In the course of Ismet's general observations on the situation at Lausanne, he enumerated the various points upon which he had not yet agreed with the Allied Powers. These included especially the financial clauses, the juridical capitulations and Mosul. We were given to understand unequivocally that on these points the Turks had no intention of yielding.

AM[ERICAN] MISSION

711.672/8 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *January 18, 1923—3 p.m.*

85. It is the intention of the Department, in preparing a preliminary draft of a treaty of amity and commerce with Turkey, to follow the general outlines of similar treaties recently concluded with other countries where conditions most nearly resemble those in Turkey, but to modify the provisions as may be required by the special circumstances. You are referred to the treaty with Japan of 1911 [39] and to that with Siam of October 12, 1921 [40] (omitting the annex). The treaties between Turkey and Germany of 1917 are also being considered by the Department.

The Department is proceeding on the assumption that Turkey will not oppose the continued application of the extradition treaty and the real estate protocol of 1874.[41]

Questions which are of special importance in a settlement with Turkey but which are not covered by the treaties mentioned above are:

1. Adequate provision for the safety of our philanthropic and religious enterprises in Turkey.

2. The devising of special arrangements to be accorded by the Turks to the Allies and ourselves as a substitute for the capitulatory regime, which shall provide for customs dues, taxation, immunities of person and domicile, judicial reform, and other matters.

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[39] *Foreign Relations*, 1911, p. 315.
[40] Signed Dec. 16, 1920; *ibid.*, 1921, vol. II, p. 867.
[41] Malloy, *Treaties*, 1776–1909, vol. II, pp. 1341 and 1344, respectively.

3. Free navigation of Dardanelles and Bosphorus.
4. Adjustment of claims for losses and requisitions.
5. Facilities for excavating and examining the remains of ancient civilizations.
6. Measures for safeguarding minorities in Turkey. The Department will consider whether this question may be met by an exchange of notes.
7. The regulation of naturalization.

The Department cannot profitably undertake the drafting of treaty clauses covering these questions before it has examined the definitive text of the provisions of the Turkish treaty with the Allies.

The nature of the provisions of the Allied treaty will of course be taken into consideration in deciding how far they should be embodied in our own treaty. In dealing with questions like those mentioned above it may be found desirable to include some features of the Allied treaty in our own rather than to rely wholly upon the principle of most-favored-nation treatment, since there is a possibility that our own treaty will be ratified while the Allied treaty will not or will be terminated later on.

The tentative draft for the general provisions of a treaty of amity and commerce will be telegraphed to you from the Department as soon as possible. Changes in the draft may be made in accordance with definitive text of the Allied treaty or with your suggestions. You should telegraph to the Department the texts of any articles upon which the Turks and the Allies are agreed and which you think should be embodied in our treaty and also your own recommendations regarding the subjects to be dealt with in our negotiations with the Turks.

As regards the last paragraph of Mission's 194 of January 12, you should inform the Department at once what additional help you require in the negotiations. If absolutely necessary the Department could supply you with a drafting expert, but it is suggested that you may be able to conduct the negotiations with the staff already at your disposal, leaving to the Department the technical task of drafting.

HUGHES

711.672/14 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *February 21, 1923—5 p.m.*

27. Department has found very helpful your 41 of February 15.[42] It is essential that the Department be kept fully informed of the

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[42] *Ante*, p. 969.

course of the negotiations on the draft treaty of Lausanne, and you are desired, therefore, to continue efforts to obtain means to communicate with Angora by telegraph. Should you fail in attempt, it is suggested that you could get information from Imbrie by sending Barnes to Angora to confer with him.

Department believes that, as matters stand, the moment is not propitious for beginning treaty negotiations with the Turks. Even should a treaty be negotiated it could not be submitted to the Senate for some months, as there will be an adjournment on March 4 until next December, and it is not proposed to call a special session. Since it may seem desirable to resume relations with Turkey as soon as there appears a clear prospect of peace in the Near East, it might be better not to involve the question of ratification with that of the resumption of diplomatic relations.

Some other problems will be presented when diplomatic relations with Turkey are resumed, and their solution might be provided for by a mere exchange of notes until such time as a treaty can be negotiated. The points to be covered in exchange of notes could be: provision for review and equitable adjustment of claims, pledges to apply most-favored-nation principle to American interests, particular guarantees for those interests which the most-favored-nation principle does not adequately protect.

For an understanding of Department's position regarding present treaty rights, see Department's 63 of December 22,[43] and other telegrams to Lausanne, which the Department presumes you have.

The Department would make no objection to the sending an unofficial Turkish representative to the United States under conditions indicated in Department's 241 of November 3.[44]

HUGHES

711.672/15 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *February 27, 1923—5 p.m.*

[Received 9:05 p.m.]

53. The contents of Department's 27 of February 21, 5 p.m., have led me to fear that the present state of American interests in Turkey is not quite understood by the Department. The following facts will show that the Turks are not in the least disposed to pay any attention to the capitulatory rights of foreigners: According

[43] *Ante*, p. 931.
[44] Not printed.

to the leading American educators here the Turks intend very soon to enforce their school regulations; they are requiring foreign companies to register before March 18 and to accept in general the Turkish laws and regulations; the Standard Oil representatives have received notice that the Turkish Government will collect the *temetu* tax from foreigners and have been asked for a list of all foreigners in the employ of the company; within the past ten days there have been three cases of refusal by the Turkish police to recognize the United States citizenship of former Ottoman subjects, and the persons concerned have been obliged practically to submit to Turkish police jurisdiction; Peet has been told by Adnan that Turkey is opposed to foreign doctors and will refuse permits to American physicians to practice; it has been announced that the right to hold property will be denied to foreign corporations; according to reports in the press, foreigners are to be required to register with the Turkish police authorities and to deal directly with those authorities instead of through their respective consular or diplomatic officers.

No mere statement of our treaty rights is going to change the state of mind which is disclosed by these facts. In order to bring the Turks around to our views we would have to resort to armed force, and I take it that we have not the least intention of doing so. It seems to me, therefore, that we have no course but to try to move the Turks by argument, and that in particular cases of incompetence or injustice we must rely upon persuasion to obtain satisfaction. We must contrive to protect our interests by these means or we must leave them without any sort of protection whatever. We delude ourselves if we rely entirely upon the presumption of a desire on the part of the Turks to secure American capital and to retain the benefits of American philanthropic institutions. Economic considerations have obviously little weight in Turkey as the country is in a very primitive economic condition. The Turks would regret the loss of American colleges, but as regards the Near East Relief, the Christian Associations, and Christian missions, most Turks would be glad to have their activities stopped. Rather than compromise in the least the free exercise of their national sovereignty, the Turks are prepared to discard even those foreign institutions which have in their eyes an admitted value. My conversations at Lausanne with Ismet Pasha fully disclosed this fact.

It is my earnest hope that the Department will be guided by the actual facts of the situation and not by the traditional theories of our legal status in Turkey. No matter what our rights may be in theory, in practice they are continually diminishing in value and it is only a question of time until they shall have entirely disappeared. We are entering upon an era of laborious reconstruction which will be long

and difficult and in which we must build from the bottom and upon new foundations. This is the principle upon which I have acted in lending my advice and assistance to the representatives of American interests in Turkey. I have assured them that the High Commission will endeavor to help American interests in every way it can, but I have also explained that they should make efforts on their own behalf and that under the new conditions it is probable that official intervention will accomplish less than private negotiation in obtaining a workable and satisfactory arrangement with the Turks. Some practical success has already resulted from thus dealing with specific problems. I am more than ever convinced of the wisdom of proceeding along these lines since the Department has decided to postpone for some months the negotiation of a treaty with Turkey. The hypothetical benefits of a hypothetical treaty will not meet the immediate needs of our missionaries, educators, and business men. In order to carry on they are already attempting, under the guidance of the High Commission, to make private arrangements with the Turks. In order to avoid prejudicing our treaty negotiations the High Commission is of course supervising these private negotiations.

BRISTOL

711.673/187

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *March 21, 1923.*
[Received April 20.]

MY DEAR MR. SECRETARY: I am writing this personal letter in order to describe in the fewest possible words the essential features of the present situation in Constantinople as it affects American interests. The despatches which we send the Department are more often than not necessarily concerned with the details of some particular question, and, unless read all together and consecutively, it is difficult to get a picture of the situation as a whole.

The fact that I want especially to emphasize is that whatever the theoretical state of our treaty rights in Turkey may be, these rights are gradually but surely being worn away in the course of the adjustments and compromises which Americans have been compelled to make in order to continue their business or their schools in the face of the application of Turkish laws and regulations. The Turkish authorities consistently act on the theory that the Capitulations are entirely a thing of the past. In other words, they set the pace, and the foreigners have to conform more or less completely, while the High Commissions can only repeat that the game is not being played according to the rules and frequently do not even protest for fear of

bringing down more troubles upon the heads of their schoolmasters or business men. Everybody recognizes that the cause of the Capitulations is lost since no Power will take any radical action to insure their retention even in modified form, but at the same time the fiction of the existence of the Capitulations still has a considerable effect upon the situation, not upon the Turks certainly, but upon the efficiency of the High Commissions in dealing with the difficult problems that come up every day. Paradoxical as it may appear, the Capitulations have become more of a hindrance than a help. Experience of the past six months has amply proved that to argue with the Turks in a given case on the basis of Capitulations is the very best way of inviting an unqualified negative stand; experience has likewise proved that to inform a business man who applies to the High Commission for advice and assistance concerning some obviously un-Capitulatory tax or regulation that the Capitulations are still in effect and binding upon the Turkish Government is certain to convince the business man that the High Commission is to be classified upon [*among*] the fossils or at least is making a bad joke at his expense. Nevertheless, the Capitulations are still theoretically in existence and official action is often embarrassed by having to recognize this theory at least negatively.

In the face of the entirely anomalous situation which I have tried to describe above I have told our business men and the leaders of our educational and philanthropic institutions that our Government considers the Capitulations still in force and our treaty rights intact; I have refrained, however, from giving advice as to conforming or not conforming with a given law or regulation not in accordance with our treaty rights and I have said that the individual or company directly affected must decide for itself. I have, however, constantly endeavored to place before the person or persons making this decision the best and most accurate information I could secure. In cases where the law or regulation was manifestly unreasonable and unjust I have made both oral and written representations to the Turks resting my case upon good sense and sound economic reasoning rather than upon the letter of the Capitulations. Nobody realizes more clearly than I do the unsatisfactoriness of such methods. The best that can be said for them is that they are adapted to the present situation and I venture to say that they are the only methods that have much chance of appealing to the Turk in his present mood.

. . . . . .

I am [etc.] MARK L. BRISTOL

711.672/18 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *March 23, 1923—7 p.m.*

49. (1) The Department appreciates thoroughly the practical difficulties of your position as described in your 53 of February 27 and your 75 of March 20.[45] It is the opinion of the Department that under the circumstances no other course was open to you than to advise informally the Americans in Turkey that you were leaving to their discretion whether they should, under reservation of their rights, make private working arrangements with the Turkish authorities.

(2) It appears from your account of the situation that the Turks show no disposition to deny Americans such rights as they accord to the nationals of other powers, and that other foreigners including the British, French, and Italians are suffering the same vexations.

(3) The present state of American interests is not fundamentally unlike that which existed in Turkey during the war before the rupture of our relations with Turkey and after the abolition of the capitulations by Turkey's unilateral declaration. During those years as at the present this Government did not undertake to enforce the letter of the treaty rights. It seems, however, that Germany and Austria were no more successful than the United States in protecting their interests, although they acquiesced in the abolition of the capitulations and tried to protect themselves by elaborate treaties.

(4) The Department does not delude itself, however, by believing in the possibility that American citizens will continue to enjoy all the privileges to which they are entitled under the capitulations and under our present treaties. It acknowledges readily that we must seek a new basis for our rights, but it feels that to make a formal surrender of present treaty rights before a new treaty is concluded would in no way strengthen your position in attempting to meet existing difficulties. It is necessary, moreover, that this Government shall be free to exact satisfaction from the Turkish Government if American treaty rights are violated and American citizens suffer injury thereby.

(5) The Department has had under consideration various possible courses of action. The United States might negotiate a treaty with Turkey reproducing the substance of the conventions annexed to the Allied treaty of Lausanne which relate to the status of foreigners in Turkey. But as was pointed out in the Department's 27 of February

[45] Latter not printed.

21, such a course would not provide for the present necessities of the situation, owing to the impossibility of obtaining an early ratification of the treaty, in view of the Senate's adjournment. The Department has also examined as an alternative the possibility of adhering to the Allied conventions with Turkey. Whether that course would be desirable will depend upon the outcome of the present negotiations between Turkey and the Allies and the ultimate form of the conventions. This procedure would also involve ratification.

(6) The Department also invites your comments upon another alternative suggestion: that you inform the Turkish authorities that Americans in Turkey are under grave apprehension that on account of arbitrary regulations, excessive taxation, and a want of confidence in the future they may be obliged to discontinue their work in Turkey and withdraw from the country; that American enterprises, both commercial and philanthropic, are uncertain what course to follow, and that trade and intercourse between the United States and Turkey will be seriously obstructed unless assurances are given and made effective. You could then say that your Government had instructed you, in bringing this situation to the attention of the Turkish authorities, to inquire whether American enterprise is regarded with favor in Turkey and whether the Turkish Government would be willing to take measures to avert the withdrawal of American enterprise.

It should be possible to elaborate your statement and make it definite enough so that the Turkish reply could hardly be couched in mere vague and unsatisfactory generalities.

(7) In the opinion of the Department there would be more efficacy in a voluntary statement by the Turkish authorities than in an elaborate treaty providing for the protection of American interests. The Turks might accept provisions similar to those in the Lausanne treaty, but try to evade them afterwards.

(8) You should ascertain for the information of the Department whether the Turks intend to insist that the proposed judicial advisers shall be chosen only from countries which were not belligerents, and whether they would favorably consider appointing Americans as advisers in any branch of their administration. This Government would give careful consideration to any expressed desire for American advisers, and might possibly be moved to regard such advances from Turkey as evidence of intention to establish satisfactory relations with the United States.

(9) The Department desires you to telegraph your views, and especially to comment upon paragraph 6 above.

HUGHES

711.672/20 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *March 31, 1923—1 p.m.*
[Received 9:54 p.m.]

91. I venture to offer the following observations in reply to your 45 [*497*] of March 23, 7 p.m. The expression of the views of the Department is greatly appreciated. The numbers before the following paragraphs refer to the paragraphs in your telegram under reference.

2. The vexations reported by me in recent telegrams affect all foreigners. The differences, if any, are in favor of the Americans. . . .

3. May I point out that to some extent the present situation is different from that existing from 1914 to 1917. I believe there are two new factors at least: (*a*) The Turks have become uncompromisingly nationalistic and abnormally jealous for their sovereign rights. This condition has arisen because of ineffectual and short-sighted Allied diplomacy. (*b*) New elements of confusion and inefficiency have been introduced, at least temporarily, by the democratic regime of the Grand National Assembly.

4. I think the Department is right in its belief that any formal act giving up our treaty rights which theoretically exist would not strengthen my position in meeting present difficulties. I have been careful to avoid any action which might be interpreted as surrendering such rights. It was simply my contention that every day these rights are being modified by practical adjustments which existing conditions necessitate and that when we do make a treaty it will do little more than recognize formally and officially the sum total of these adjustments. What gave me particular concern was the thought that the scope and importance of this process of change might not be completely understood by the Department.

5. Before the final form of the Lausanne conventions has been determined it would of course not be possible to give any definite opinion as to whether it will be advisable to adhere to them. However, I offer two tentative observations: (*a*) Obviously our own negotiations can hardly obtain a regime which will be an improvement on that which these conventions will establish at least in theory. (*b*) The regime under which American business and interests will live will be much the same whether we adhere to these conventions immediately or wait for a separate treaty, since the Turks will hardly refuse in

practice to apply to our interests what they theoretically grant to the Allies.

6. The line of reason presented by the Department has been used in some form in practically all oral or written representations which I or members of my staff have made to the Turks, but I do not at present favor any request that the Turks give a general definition of their intentions with regard to our activities in the country. For this I offer three reasons: (*a*) It is almost impossible to induce a Turkish official to place himself effectively on record as to general principles or intentions. He will either confine himself to pleasant but meaningless verbiage or else put on record much less than in practice he or his subordinates will do in a particular situation. (*b*) In Turkey when an official definition of views can be secured it does not necessarily have any connection with practices in different sections of the country. Now that the role of local authorities has taken on new importance this is especially true. Examples of this are the statements by Ismet at Lausanne regarding our schools which were of insignificant practical value when applied in particular cases, as for instance in the closing of the schools at Mardin. (*c*) For an official declaration to be of any value it must be given the approval of the Grand National Assembly. Such an approval could not now be obtained.

7. In principle I agree with the opinion of the Department. While there is doubtful value in general statements from the Turks the value of precise statements regarding particular cases is still more doubtful. There is a great deal more value in action regarding such cases than in any provisions, however elaborate, in treaties. The only way in which we can obtain a new basis for the functioning of our interests in Turkey is by slowly and patiently building a fabric of custom and precedent from these particular statements and actions. I have been convinced by my observations since returning from Lausanne that while in a limited way treaty provisions are doubtless important they are not half as important as are the small tangible concessions and possibly reluctant assents being obtained in particular cases by American educators and business men.

My conception of the present role of the High Commission is to consult with the leaders of American interests, to give them information, and to assist them in consolidating and extending the results of their contacts with the Turks. Having this in mind, I frequently seek the advice of a small, informal council of leading American educators and business men. I am also seeking to stimulate Chamber of Commerce, particularly in development of connections with the Turks.

8. Prior to the conclusion of peace I think it would be useless to approach the Turks with respect to American advisers.

9. The essential feature of the situation at present is that it must be handled locally and that in the first instance it must be handled by private persons. There are two ways, however, in which I think the Department can be of material assistance: (*a*) by receiving an official nondiplomatic representative of the Turkish Government at Washington, and (*b*) by stressing the line of argument presented in paragraph 6 of the telegram under reference in press conferences. I propose to send separate telegrams elaborating these recommendations. The realization that the Department supports the policy I am trying to follow is of the greatest help to me.

BRISTOL

711.672/37 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 5, 1923—1 a.m.*
[Received 4 a.m.]

292. A member of Ismet Pasha's staff delivered to me last night the tentative draft of a note which Ismet proposes to address to me suggesting that we undertake negotiations looking toward a treaty of amity and commerce between our two countries. He asked whether we approved the draft. One of its paragraphs provided that we should continue to negotiate even if some obstacle should halt the negotiations between the Allies and the Turks. In reply we suggested that any reference to possibility of rupture of Allied negotiations had better be omitted. Today we learned from a member of the Turkish delegation that Ismet had assented to our suggestion and that the amended note would be sent to us presently. Upon receiving it and before replying I shall telegraph its text to the Department.

GREW

711.672/40 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *May 5, 1923—6 p.m.*
[Received May 8—7:29 a.m.[46]]

295. Referring to my 292, May 5, 1 a.m. Following is translation of letter from Ismet received this morning:

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[46] Telegram in two sections.

"Lausanne, May 5th, 1923. His Excellency, Mr. Grew, Minister of the United States of America, etc., etc., etc., Berne.

Excellency: Referring to the interview which I had recently with Your Excellency, relative to the resumption of normal relations between Turkey and the United States of America,[47] I have the honor to suggest that it would be useful to this end to enter immediately into negotiations with a view to concluding not only a treaty of amity, but also a convention regulating reciprocally consular relations and the conditions under which the nationals of each of the two countries may reside in the territories of the other.

We could, at the same time, proceed to the conclusion of a treaty of commerce between the two countries. Nevertheless, it is possible, and perhaps preferable, to commence negotiations with the idea of concluding this treaty at Constantinople after the resumption of diplomatic relations.

By virtue of the full powers which I have from my Government, I am ready to negotiate and conclude the acts above indicated. In the event that Your Excellency is animated by the same desire, and that you should obtain full powers from your Government, insofar as you are not already supplied, we could commence the desired negotiations at once. These once begun should be continued until a positive result is obtained.

Accept, Excellency, the assurance of my high consideration. Signed Ismet."

[Paraphrase.] I stated during conversation with member of Ismet's staff, reported in Mission's 292, that it might be desirable in connection with the proposed conversations, and in case negotiation of the commercial treaty should be deferred, to settle upon some general arrangement relating to other pending questions, perhaps by an exchange of notes. The Turkish representative, in assenting, replied that Turkey would certainly accord to the United States any privileges which might be conceded to the Allied Powers. We also discussed the exact meaning of the phrase "positive result" in the concluding sentence of Ismet's letter, and we agreed that it should be interpreted to mean that it is in good faith that we enter upon the negotiations.

By suggesting that it is desirable to embody in the proposed convention provisions for regulating consular relations, Ismet probably has in mind general provisions like those in draft sent from the Department, articles 10, 11, and 13.[48] A detailed consular convention, however, would probably be acceptable to him. His proposal that our treaty of amity be negotiated apart from the treaty of commerce can hardly have been made without regard to my previous representations that as a preliminary to resuming normal relations we should settle pending questions by definite arrangements. It is to be supposed that he has kept in mind what I have said about

[47] See telegram no. 278, May 2, from the Special Mission at Lausanne, p. 997.
[48] Not found in Department files.

the proper settlement of questions now under discussion between the Turks and the Allies and how important it is to us to have them settled satisfactorily.

I have not yet sent a formal acknowledgment of Ismet's note since I realize that my reply may be regarded as an important communication. Concerning its form and content I shall await precise instructions from the Department, and in the meantime I respectfully suggest that the Department authorize me to send an acknowledgment to Ismet in the following terms: [End paraphrase.]

"I have the honor to acknowledge the receipt of Your Excellency's communication of May 5th, 1923, in which you suggested that, with a view to the reestablishment of normal relations between the United States and Turkey, it might be desirable to enter at once upon negotiations for the conclusion of a treaty of amity and commerce and a convention respecting the consular relations of the two countries as well as the conditions of the residence of the nationals of each of the countries on the territory of the other. You state that by virtue of full powers which you hold from your Government you are prepared to negotiate and conclude the instruments mentioned and that upon my being provided, so far as I may not already have been provided, with the full powers of my Government for this purpose, we might immediately commence the desired negotiations with the understanding that they would be continued until the attainment of a positive result. In this connection you indicate that it might be preferable that the negotiations with respect to a treaty of commerce be commenced with a view to the conclusion of such a treaty at Constantinople after the resumption of diplomatic relations.

I shall take pleasure in communicating further with Your Excellency in regard to this matter when I shall have received fuller instructions from my Government."

[Paraphrase.] It would be helpful to be advised of the Department's wishes regarding the proper time and place for giving information to the public concerning this preliminary exchange of notes with Ismet Pasha. Rumors have already got about among the newspaper men in Lausanne and I have been questioned. When I address to Ismet my note of acknowledgment I should like to be able to inform him at the same time of the Department's views on this point. [End paraphrase.]

GREW

711.672/40 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 9, 1923—3 p.m.*

133. (1) Department has considered your draft of an acknowledgment to be addressed to Ismet, and suggests that in paragraph

1, which recapitulates his letter, you omit the words "with the understanding that they would be continued until the attainment of a positive result," and also the succeeding sentence which refers to negotiations at Constantinople. The Department thinks it would be better not to give the impression, by further repeating Ismet's words, that you assent to his suggestion that when the negotiations have once begun they must be carried forward to a positive result, neither does it seem desirable to give emphasis to Ismet's proposal that after diplomatic relations have been restored a separate treaty of commerce be negotiated at Constantinople. It may be desirable, as you have suggested, to include our commercial agreements in a general treaty of amity and commerce to be concluded at Lausanne before relations are resumed.

(2) As a substitute for the second paragraph of your draft the Department believes it would be preferable to employ a sentence somewhat as follows: I have the honor to inform you that under instructions from my Government I am authorized to propose that an effort be made, through informal conversations, to discover whether there exists a satisfactory basis for the negotiations referred to in the letter from Your Excellency.

(3) The merit of this suggested phrasing is that it would relieve you of the necessity of sending to Ismet later on a more detailed written statement, and thus the informal basis of the negotiations would not be disturbed until you had engaged the Turkish delegation in a thorough discussion of a draft treaty.

(4) The Department authorizes you, when presenting your reply to Ismet, to say to him that as soon as the discussions give evidence that a satisfactory result is in sight you will receive full powers to negotiate. At the same time you may find occasion to inform Ismet that this Government desires that the negotiations between Turkey and the Allies for a treaty of peace shall not be obstructed by anything which it may do, and to explain to him, if in your judgment it seems desirable, that the necessary basis for negotiating a treaty with this Government will be greatly improved if the question of the regime for foreigners in Turkey, which is now under discussion at Lausanne, reaches a satisfactory settlement.

(5) After your preliminary negotiations have begun, the Department will be in a better position to examine the question of the desirability of negotiating a detailed consular convention and a separate treaty of commerce.

(6) As you have been already advised, the Department does not wish to encumber you with elaborate instructions, and, if in your opinion the second paragraph of your draft acknowledgment is preferable to the one recommended above, the Department does not

object to your retaining your own phrasing after making the changes indicated in the first paragraph.

(7) The Department leaves to your discretion the question of publicity. But the Department wishes to be advised in advance if you decide to publish the text of the communications exchanged with Ismet and to be informed of the date on which you propose to make it public.

HUGHES

711.672/44 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 11, 1923—3 a.m.*
[Received 6:56 a.m.]

315. I sent communication today to Ismet in conformity with your telegram 133 of May 9, first and second paragraphs, and I had a conversation with him on the basis of your fourth paragraph. I proposed that the American and Turkish experts meet informally for discussion of basis of negotiations. At first Ismet seemed to be disappointed not to have the negotiations start at once, but he agreed that he would consult his experts.

. . . . . .

GREW

711.672/45 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 13, 1923—9 p.m.*
[Received May 14—4:15 a.m.]

325. The following telegram has been received from Constantinople as number 12, May 12, 3 p.m., with request that it be repeated to the Department:

Referring to the Mission's 22, May 10, from Lausanne, which repeated the Mission's 272 of April 29 to the Department.[49] I am moved to recommend earnestly that while negotiations are proceeding between Turkey and the Allies at Lausanne we refrain from entering upon direct negotiations of our own with the Turks. Present state of feeling at Lausanne cannot be favorable to discussions with the Turks in a spirit of friendliness, such as we may have after

[49] *Ante*, p. 993.

Turkey and her enemies have reestablished the peace. There is no reason to expect that by beginning our negotiations now we shall get better terms than the Allies, and we cannot be sure what the Allies will agree to until they have actually signed a treaty. That is to say, the final provisions of the treaty may be quite different from the substance of their present contentions. It is not to be supposed that the private understandings among the Allies or between them and the Turks will be revealed to us. As an instance there is the present report of an agreement between the French and the Greeks. We might be put in a very embarrassing position if after having begun our negotiations the conference should break up and we should wish to drop the negotiations with Turkey. Even after peace is established it is possible that the United States will regard the Government at Angora as hardly regular enough and stable enough for recognition. In that case our greatest and perhaps our only resource for the protection of American interests will be the desire of the Turkish Government to resume relations with us. For the present American interests are not being injured. We are approaching a solution of the flour tax question, we are arriving at arrangements for American schools, and we are making progress toward better protection of our interests. Since we have not been at war with Turkey it is not necessary that in agreeing with the Turks upon the date of the effective abolition of the capitulations we should assent to the same date as is named by the Allies in their agreement with the Turks. We can insist that, until modified by a new treaty, our present treaty rights continue undiminished. We would lose this advantage, and we could not hope to obtain any better terms than the Allies in our later negotiations if we committed ourselves prematurely.

When peace is once restored in Turkey there is no question but that we can negotiate a treaty upon most-favored-nation principles. It is my firm conviction that the desire of the Turks to begin immediate negotiations with us springs from a wish to play us off against the Allies. In support of this belief I cite the fact that, in spite of Ismet's repeated suggestions to our delegation that we begin negotiations, he admitted, toward the close of the last conference, that he had no powers to negotiate.

We should only commit ourselves irrevocably and ruin all our chances for obtaining any better terms from the Turks if we signed the Allied conventions. It cannot be reasonably argued that we ought not to take part in the discussions of the present conference whenever our interests are involved, as we did, or even more fully than we did, in the first conference. The Allies are very jealous of our favored position in the Near East, and they will not scruple to involve us if possible to our disadvantage. Neither will the Turks be slow to play us off against their adversaries at the conference.

I should be glad to receive as soon as possible a copy of the draft treaty sent with Turlington.[50] Bristol.

GREW

[50] Not found in Department files.

711.672/52 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 17, 1923—1 p.m.*
[Received 8:55 p.m.]

340. Referring to Mission's 339 of May 16.[51] It was understood on both sides that the conversation with the Turkish expert[52] was to be considered as unofficial. His views are summarized below:

(1) The Turks favor resumption of consular and diplomatic relations with the United States.

(2) They maintain that since abrogation of the capitulations no consular conventions have been concluded which still remain valid, inasmuch as under the Treaty of Versailles the German conventions of 1917 were denounced. Any convention which they make with us, therefore, must provide in detail for consular functions.

(3) They propose that rights of nationals of one country residing in territory of the other be defined by convention.

(*a*) They do not favor our adhering to the convention between the Allies and Turkey, nor our signing an identic convention, but would prefer to come to a separate agreement with us.

(*b*) They desire that the convention shall respect the principle of equal treatment for Turks and Americans. The United States will receive the benefit of such exceptions to this rule as are to be embodied in conventions with the Allies, as for instance the right of persons already established in Turkey to continue the practice of their professions and also the right of special jurisdiction in questions of personal status.

(*c*) The Turks are unwilling, therefore, to assent to a most-favored-nation clause in the new treaties, as under the above principle it would have no significance. (But see draft of trade convention, article VII.[53])

(*d*) On this point they will expect reciprocal engagements from the United States.

(4) Trade agreement:

(*a*) Our adherence to trade agreement of the Allied Powers is not apparently what the Turks wish for. They admit that here in Lausanne they may not be able to conclude a trade agreement with the United States as the issues are involved and time is too short for full discussions. But in principle they are ready to negotiate.

(*b*) It is the plan of the Angora Government to frame special conventions with individual powers granting special customs rates. The

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[51] Not printed.

[52] Conversation between Dolbeare, Shaw, and Turlington of the Special Mission at Lausanne and Mustapha Cherif Bey at an informal meeting May 16.

[53] Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 808.

general rates will apply to all countries which have not concluded these special conventions.

(5) The treaty of 1830 with the United States [54] is regarded as cancelled. The Turkish argument seems to be that the pre-war treaties, which were all capitulatory, were made void on the abolition of the capitulations.

(6) The Turks are unwilling to admit into their convention with us any mention of American missions and schools. But they are prepared to make a declaration similar to the one offered to the Allies.

(7) They are willing to give consideration to the question of naturalization, although they had not supposed the treaty would deal with that subject.

(8) The Turks maintain that there can have been no instance of injury to American property in Turkey during the war, and therefore no claim against the Turkish Government, since on the rupture of diplomatic relations the authorities had directed that American property was not to be touched. The proper Turkish authorities will deal with claims for requisitioned property when receipts are presented. Apparently the Turks will not reject claims which have a sound basis in international law, and they advise that such claims be negotiated either through regular diplomatic channels or directly by the claimants.

(9) The Turks are unwilling to admit into the treaty any reference to the Open Door, or to bind themselves by a declaration to respect the principle of equality of commercial opportunity. In the view of Mustapha Cherif Bey it is to the Allies that we should make representations on this score, and he expressed surprise that, considering the Chester concession, we had brought the subject up at all.

(10) The Turks are willing to permit consuls to attend as observers any public trial, but they refuse to make express promises in the treaty even in terms of reciprocity.

(11) There seems little doubt that we can agree with the Turks regarding patents, trade marks, and so forth, as these are matters of detail.

(12) The regulation of succession to property will receive proper attention in the treaty.

(13) The right of Americans charged with crime to be tried only before tribunals in the principal cities will not be admitted.

(14) A fundamental condition of negotiation must be an express recognition of the abolition of the capitulations.

Toward the end of the conversation we promised to supply the Turkish expert with a memorandum of our discussion, and the various subjects are to be examined further by both sides and to be discussed again in a few days.

GREW

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[54] Malloy, *Treaties*, 1776–1909, vol. II, p. 1318.

711.672/45 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 17, 1923—6 p.m.*

139. Referring to Mission's 325 relaying Bristol's telegram of May 12, and to Mission's 326 of May 13.[55] Before authorizing you to proceed to negotiate with the Turks at Lausanne, the Department had carefully studied the advantages and disadvantages of that step, and it does not feel that the considerations brought forward by Admiral Bristol would furnish ground for altering the course already laid down. As regards the draft treaty sent to Lausanne with Turlington, it should be clearly explained to Admiral Bristol that it is to be held as strictly confidential and that it is only tentative.

Telegraph the following as Department's 98 to Constantinople:

Your May 12, 3 p.m. The Department recognizes the weight of your reasoning, but it had carefully examined the situation before it authorized Grew to meet Ismet's advances by suggesting that an effort be made through informal discussions to discover a satisfactory basis for negotiation.

The Department is not at present disposed to conclude a treaty with Turkey before the virtual conclusion of the Allied negotiations. Should these negotiations break down over questions in which the United States is also interested it is presumed that our own negotiations would be dropped for want of a proper basis. If they break down over questions which do not particularly touch this country's interests, we will be at liberty to choose our own future course.

The Department believes that by our present close cooperation with the Allied delegates at Lausanne we can defeat any effort the Turks may make to play us off against the Allies. Simultaneous negotiation by the United States and the Allies should tend to demonstrate that we have a community of interest with the Allies in defining the status of foreigners hereafter in Turkey.

The Department does not anticipate that our treaty arrangements will in any way obstruct efforts now being made by direct and practical understandings with the Turkish authorities to safeguard our interests in Turkey. A sound basis for American enterprise should be found through a practical interpretation and application of general treaty provisions. It is the Department's belief that if this Government had declined to assent to the Turkish suggestion for a careful examination of the relations between the United States and Turkey with a view to negotiating a treaty, such action might have made an unfortunate impression, as seeming to imply that this Government does not sincerely wish to regularize its relations with Turkey, despite the fact that on fundamental points the Turkish

[55] Latter not printed.

Government is prepared to meet this Government's views. Moreover, if we should make no effort to settle our differences with the Turks, while on the other hand the Allies conclude a peace and resume diplomatic relations with them, the consequence might be to render American interests liable to unfavorable discrimination and to leave the United States in a position of disadvantage which it does not merit under present circumstances. But if in any case and in spite of our best endeavors we fail to regularize our relations with Turkey, the Department does not wish to be charged with having neglected to take timely action, but desires that responsibility for the failure shall be placed squarely upon the Turks.

HUGHES

711.672/53 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 18, 1923—2 a.m.*
[Received May 18—1 a.m.]

345. Our telegram 340 of May 17. Following observations regarding informal talk last night with Cherif Bey are respectfully submitted.

1. It is possible that the reason for the sudden change of plans of the Turkish delegates, after intimating that discussions could not start until next week, is that they wish to get started with us before a possible break in the conference, because of the Greek situation.

2. It was apparent that on every matter discussed the attitude of the Turkish expert was one of great reserve. His remarks did not have that tone of generous and even cordial sympathy often shown by Turkish officials at Constantinople and Angora, as well as by the Turkish delegates here when considering affairs of interest to America.

3. We believe that we should offer something tangible at our next meeting as a basis for discussion.

With respect to judicial safeguards and general conditions of residence we might insist that the United States be given at least as much as the Allies are receiving in the convention [56] and declaration [57] which the Turks are discussing with the Allies. Concerning other subjects in which the United States has an immediate interest we might present such articles as we should expect the Turks to accept

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[56] For text of draft convention presented to the Turkish delegation at Lausanne, Jan. 31, 1923, see Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 790; for text of signed treaty, see Great Britain, Cmd. 1929, Treaty Series No. 16 (1923), p. 139. See also treaty signed on behalf of the United States and Turkey, Aug. 6, 1923, *post*, p. 1153.

[57] For text of Montagna formula, Feb. 4, see p. 995; for text of July 24 declaration, see p. 1139.

taken from treaties now in force with other countries. Instructions are requested.

4. We will send a telegram tonight giving more detailed comment.[58]

GREW

711.672/54 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 19, 1923—6 p.m.*

143. Mission's 340 of May 17 and 345 and 347 of May 18.[59]

1. With reference to request for instructions in your 345, point 3, the Department believes two courses of action are possible.

(*a*) You might enter into informal discussions taking the Turlington draft treaty as a basis. The Department can later indicate to you certain changes, not in the subject matter but in the wording. See sixth section of this telegram. It would be important if you follow this procedure to maintain an article giving most-favored-nation treatment to the United States as in its present form the Turlington draft would not include all the details of the provisions in the conventions between Turkey and the Allies.

(*b*) The alternative course of action is in substance that in the third point of your telegram 345, i. e., using the conventions and declaration as a basis for a treaty while adding clauses from the Turlington draft or from our general treaties of commerce to cover points in which the United States has a particular interest and which are not included in the conventions and declaration.

2. The Department is willing to leave it to your discretion to decide which of the two plans proposed you can most successfully adopt. I rather think that there are certain advantages in the second method of procedure.

3. . . . The Department realizes that the Turks will not be disposed to make concessions without resistance, and it has no illusions as to the difficulties of negotiating with them.

4. You may find it desirable on this account to obtain assurances directly from Ismet on certain points which are fundamental and without which it would be most difficult to successfully continue negotiations. The points are as follows:

(*a*) That Turkey is ready to concede to the United States privileges no less favorable than those granted to the Allies. It would drag out our own negotiations indefinitely to haggle over issues which have already been settled in the negotiations with the Allies.

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[58] Not printed.
[59] No. 347 not printed.

(*b*) That Turkey should in principle accept reciprocal most-favored-nation treatment. You can call the attention of the Turks to the fact that the treaties between the United States and other powers are generally based upon the principle of most-favored-nation treatment and that the United States is ready to extend to Turkey without condition most-favored-nation treatment, provided Turkey reciprocates.

5. Reference your telegram 340, May 17, paragraph 4, subhead (*b*). The Department is concerned at the suggestion that Turkey plans to follow a system of special customs privileges which will be extended by particular conventions to particular countries. It is presumed that the basis for this proposal is the desire of the Turks to play off certain countries against others, granting special privileges as a return for possible political favors. The Department thinks that it might be advantageous for you to discuss this matter informally with the Allied delegates, calling their attention to the dangers of permitting any such attempt and suggesting that the United States and the Allies maintain in their respective treaties with Turkey the most-favored-nation principle to keep Turkey from successfully making special bargains. Turkey might be inclined to favor the United States, particularly at present, but that does not change the view of the Department that the program outlined by Cherif Bey in this respect has undesirable features.

6. A draft has been prepared by the Department for a commercial treaty with Spain which is soon to be negotiated.[60] The Department is sending Hackworth of the Solicitor's Office to Europe to assist our Embassy in Spain in starting these negotiations. He will go via Lausanne, reaching there about May 30, so as to leave with you a copy of this draft for your strictly confidential information. There are features in this draft treaty with Spain which would not apply with respect to Turkey, as will be explained to you in further detail by Hackworth. Yet certain articles in this draft may be useful in suggesting certain changes, not in substance but in form, in the Turlington draft treaty. In the Spanish draft the consular provisions are more detailed than in Turlington's and might apply to the Turkish situation. You should not take this to mean, however, that you need necessarily wait until you receive the Spanish treaty draft before starting informal conversations based on the Turlington draft if you think this method more desirable than the one proposed in point 1 (*b*) above.

HUGHES

[60] See pp. 832 ff.

711.672/57 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 23, 1923—6 p.m.*
[Received 11:23 p.m.]

357. A meeting took place today between Shaw, Dolbeare, and Turlington, representing the American delegation, and Mustafa Cherif, representing the Turkish. Our minutes of the meeting follow:

(1) Mustafa Cherif Bey was informed that with the object of giving a clear exposition of our views we had prepared certain notes which we would take the liberty of reading to him, as follows:[61]

"After one or two conversations and an exchange of letters between His Excellency Ismet Pasha and Mr. Grew it was decided that a comprehensive survey of the relations between the United States and Turkey might be made with a view to ascertaining whether the views of the representatives of the two countries offered a basis for the negotiation of a new treaty.

I will only touch upon the fact that the United States and Turkey are not and have not been at war and that under international law the treaties between the two countries cannot be considered suspended or terminated. Nevertheless the Government of the United States is not unwilling to revise its treaty relationship with Turkey and in the event of receiving satisfactory assurances regarding the several matters described in general terms below, it is ready to recognize formally the abolition of the capitulations and to assure to the citizens of Turkey a treatment as favorable as that accorded by it to any other peace convention [*power's citizens?*].

It is obvious that the United States confidently looks for a willingness on the part of Turkey to give to American nationals in all respects treatment as favorable as the Turkish Government is willing to give to nationals of the Principal Allied Powers. We expect you to be willing to sign with us conventions substantially similar to those to be signed with the Allied Powers on "établissement" and regarding commerce. The declaration concerning the administration of justice would by its terms apply to the United States. Regarding schools and other American institutions in Turkey we presume that a letter substantially the same as the one to be addressed to the Allied chief delegates by His Excellency Ismet Pasha, would also be addressed to the appropriate representatives of the United States.

There are several other matters in which we are greatly interested and which would naturally require consideration in connection with provisions for the resumption of diplomatic relations and the revision of existing treaties. Among these I may mention naturalization, claims, and the functions of consular officers. To show more definitely the sort of provisions which we have in mind as appropriate for incorporation in new treaties or conventions relating to these matters, I will hand you certain extracts from treaties which we have made with other countries concerning the same matters. You will of course understand that I am not suggesting the use of identical provisions in treaties or conventions between the United States and Turkey.

In conclusion let me state that this description of the American view is not made with a thought of finally accepting something less. We think that neither our position under international law nor our position in world affairs nor our proven attitude in Turkey permit us to discuss whether we would abstain from [*accept*] something less than you are willing to accord other nations."

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[61] Statement not paraphrased.

(2) After listening to the reading of the statement the Turkish representative asserted that there was no disposition on the part of his Government to deny the United States as favorable a treatment as will be accorded to the Allies. But the idea which the Turkish delegation had in mind was, he said, to build up a series of new treaties, inasmuch as the revision of existing treaties might present difficulties since those treaties were in part, at least, capitulatory.

(3) He asked us to explain more precisely the meaning of the statement that the United States would accord Turkey most-favored-nation treatment, remarking that the American doctrine on the subject differed from that of European countries. The American practice, he understood, was to grant particular privileges only to those countries which granted similar or equivalent privileges to the United States. In reply we explained that the United States had recently modified its doctrine of most-favored-nation treatment, and that it was now possible to assure him that the United States could accord unconditional most-favored-nation treatment to Turkey on the basis of reciprocity between the two countries. An exception to the above statement was Cuba, toward which the United States holds a special relationship.

(4) The view was expressed by Mustafa Cherif Bey that the text of the proposed treaty could be taken at once under consideration. We replied that in order to avoid any misunderstanding with regard to the present conversation, we felt that we ought not to reply to his proposal until we had communicated to him the minutes of the present meeting.

(5) As regards the Montagna formula,[62] Mustafa Cherif expressed the hope that we would be able to support the Turkish view. To which we replied that this question should be referred to the consideration of the plenipotentiaries and that Mr. Grew would be informed of Mustafa Cherif Bey's observation.

(6) The proposal was made by Mustafa Cherif Bey that our negotiations might commence with an examination of the provisions for *établissement* and commerce in the conventions with the Allies. Special questions such as the resumption of diplomatic and consular relations would also have to be considered.

(7) It was explained to Mustafa Cherif that our negotiations were the subject of inquiry by representatives of the press, and that a statement to the press might now be advisable since our preliminary *pourparlers* seemed to have reached a satisfactory stage. This was of course a matter to be decided upon by His Excellency Ismet Pasha and Mr. Grew, and we offered to submit a draft statement for the consideration of His Excellency Ismet Pasha together with the present *procès-verbal.*

Proposed communiqué to the press (for release 24 hours after mutual agreement):[63]

Informal conversations have been proceeding between Ismet Pasha and Mr. Grew and between the experts of the American and Turkish

[62] *Ante*, p. 995.
[63] Communiqué not paraphrased.

delegations with a view to finding a suitable basis upon which formal negotiations for the revision of the treaties between the United States and Turkey could be commenced with the prospect of a satisfactory result.

It is envisaged that such a revision while preparing the way for the reestablishment of diplomatic relations between the two countries, would entail the conclusion of instruments regulating the commerce between the two countries, as well as the situation of the nationals of each country in the territory of the other. It might also involve the conclusion of agreements in regard to naturalization, claims, and consular functions.

These informal conversations are progressing favorably and have furnished ground for the belief that formal negotiations can be entered upon at an early date.

GREW

711.672/58 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 24, 1923—6 p.m.*

150. Referring to Mission's 357 and 358 of May 23.[64] The progress you have made is gratifying to the Department. You are authorized to proceed on the basis of the statement read to the Turkish representative. The proposed communiqué to the press is also approved. The Department is telegraphing to you full powers.[65]

The Department considers that it will be better hereafter, in referring to the capitulations, to state that the United States consents to the abrogation of the capitulations, rather than to employ the phrase, as read to Mustafa Cherif Bey, that the United States is ready to recognize formally the abolition of the capitulations. If the Turks object strongly to this modified phrasing, the Department may assent to the statement that the United States accepts, insofar as it is concerned, the abrogation of the capitulations, which is the formula contained in Mission's 338.[65a] The Department's previous telegrams have already pointed out that our capitulatory rights can be modified only through a treaty since they have their basis in existing treaties. Insofar as this Government is concerned, therefore, the abrogation of the capitulations becomes effective only when a new treaty with Turkey is ratified.

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[64] Latter not printed.
[65] Telegraphed on May 29.
[65a] Not printed.

The information contained in the above paragraph is intended for your own guidance and comment. At an early date you will receive further instructions from the Department.

HUGHES

711.672/60 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 28, 1923—1 a.m.*
[Received 4:57 a.m.]

374. Our telegram 358 of May 23.[66] The Turkish expert's confirmation of our memorandum giving our interview of May 23 as we understood it was incomplete. The following paragraph gives his modification of his remarks reported in the paragraph marked (2) in our telegram 357 of May 23:

The Turkish delegation takes the position that it cannot envisage the revision of the present treaties as they are capitulatory in character to some extent. The Turkish delegation contemplates building a new series of treaties based on international law.

During these last critical days we have purposely postponed a discussion, as obviously on the eve of a breakdown of the conference we would not wish to commit ourselves to negotiations. Indeed, I suggested as much to Ismet.

I authorized Dolbeare to see Cherif Bey this afternoon in view of the agreement[67] which I reported in our telegram 372 of May 26.[66] Dolbeare made an oral statement to the following effect:

1. The American Government is unable to accept the theory that a treaty can be abrogated by one party.
2. When we refer to a "revision of treaties" we contemplate negotiating a new treaty or treaties to replace that of 1830.[68]
3. Treaty relationships would not be interrupted.
4. We did not contemplate making the new treaty on the basis of the old one.

Cherif Bey said that no question had been raised as to the enduring character of treaties. By "revision" he had understood "modification". It was the understanding of the Turkish delegation that the task contemplated was the negotiation of a new treaty not the modification of the present treaty.

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[66] Not printed.

[67] i. e., agreement between the Greek and the Turkish delegates regarding reparations, over which an acute controversy had developed which threatened to break up the conference.

[68] Malloy, *Treaties*, 1776–1909, vol. II, p. 1318.

He proposed the following amendment to his first sentence as representing the view of the Turkish delegation: Cherif Bey stated that it was not the object of the meeting to discuss revising or changing the present treaties.

Our feeling is that the attitude of the American delegation has been clearly stated and accepted in principle and that in these unofficial preliminary discussions it is useless to have any further argument over words.

The Turks agree that the United States shall receive everything that the Allies receive. Our contention as to the enduring character of the present treaties is not disputed by the Turks. I hope that now we can proceed to draw up the necessary preliminary articles and have the whole problem disposed of in a short time.

The Turks did not wish to mention claims in the communiqué. On this subject Dolbeare made a written statement to the following effect:

I think it desirable that no room be left for doubt that your consent in principle is necessary on the question of claims which is one of the outstanding issues. A satisfactory method of dealing with this matter would be to refer to a mixed commission all pertinent questions of law and fact.

It has been difficult to agree on the wording of a communiqué. It has therefore been decided that each delegation will issue a separate communiqué Monday night. Our statement, which will follow closely the lines of that suggested in my telegram 357 of May 23, seventh paragraph, will read as follows:[69]

"Informal conversations have been proceeding between Mr. Grew and Ismet Pasha and the experts of the American and the Turkish delegations with a view to finding a suitable basis upon which formal negotiations for the revision of treaties between the United States and Turkey could be commenced with the prospect of a satisfactory result. Specifically it is the desire of the two delegations to replace the treaty of 1830 by new treaties.

"It is envisaged that the press reports [*this procedure*,] while preparing the way for the resumption of diplomatic relations between the two countries, would entail the conclusion of instruments regulating among other subjects the commerce between the two countries as well as the situation of the nationals of one country in the territory of the other.

"These informal conversations are progressing favorably and have furnished ground for the belief that formal negotiations can be commenced at an early date."

Communiqué repeated to Constantinople.

GREW

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[69] Remainder of telegram not paraphrased.

711.672/62 : Telegram

The Secretary of State to the Special Mission at Lausanne

WASHINGTON, *May 31, 1923—5 p.m.*

155. Your 383, May 30, midnight.[70]

Department has today issued following statement to Press:

"Informal conversations have been proceeding between Mr. Grew and Ismet Pasha at Lausanne with a view to ascertaining whether a suitable basis could be found for the revision of existing treaties between the United States and Turkey. These conversations have reached a point where the Department considered it opportune to authorize Mr. Grew to initiate more formal negotiations and to this end full powers to negotiate and sign a treaty or treaties of amity and commerce with Turkey were telegraphed to Mr. Grew on May 29th. The conclusion of such negotiations is, of course, dependent upon a satisfactory adjustment of outstanding questions between the two countries."

HUGHES

711.672/64 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 1, 1923—1 a.m.*

[Received 2:32 a.m.]

389. I called upon Ismet today.[71] Referring to his note of May 5 proposing the negotiation with us of a treaty of amity, I informed him that as our respective experts apparently have found a satisfactory basis for such negotiations, I had now been given full powers for the negotiation, conclusion, and signing of such a treaty. I proposed that the following general principles might be included in the treaty:

1. The resumption of consular and diplomatic relations.
2. Reciprocal most-favored-nation treatment, the abrogation of capitulations being accepted.
3. Provisions regarding naturalization.
4. Settlement of questions relating to claims.

Ismet did not indicate any dissent. I suggested that the informal conferences between our experts continue until agreement is reached provisionally upon draft naturalization treaty. Ismet agreed to this. Ismet agreed to my proposal that since the matter had already received publicity we should inform the Swiss Government and the President of the Vaud canton tomorrow that we are entering into

[70] Not printed.

[71] This telegram was obviously drafted on May 31.

negotiations. I told Ismet that I should also inform the head of each delegation at the conference concerning our plans. Ismet suggested that we make an official communiqué. He agreed with my suggestion that this be discussed by our experts at their next meeting. He also proposed that we should write notes to each other giving the names of the personnel of our respective delegations. He concurred with me that this matter also should be considered by our experts when they met. Ismet also agreed with me that it was not necessary to exchange full powers until our respective experts had made a provisional draft treaty.

The experts will meet soon. The favorable results of this interview give us much gratification as the indications are that there is no divergence of views regarding the form of the treaty.

It will be a great help to have the cooperation of Hackworth with Turlington in drafting.

I am repeating this telegram to Constantinople.

GREW

711.672/64 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 1, 1923—6 p.m.*

162. Your telegram 389 today.

1. Department thinks it better not to specifically mention resumption of consular and diplomatic relations in the treaty. The treaty cannot be sent to the Senate for ratification until December when Congress reconvenes and it might be desirable to resume diplomatic relations when Turkey ratifies the treaty. It is not necessary to have treaty provisions for this purpose and diplomatic representatives might be exchanged at a date later agreed upon without any specific provisions at Lausanne on the subject.

2. It is assumed that the treaty will include in addition to the points mentioned in your telegram under reference provisions substantially identical with those in the two conventions between Turkey and the Allies, and that Ismet will also send to you communication substantially like that to the Allied representatives regarding charitable, educational, and religious institutions and that the declaration concerning the administration of justice will be given general application. Confirmation on these points is desired. As pointed out in earlier telegrams, should negotiations between the Allies and Turks break down on matters which are of common interest to the Allies and the United States respecting the future regime of foreigners it would hardly be possible for us to conclude a treaty with the Turks.

3. It would seem desirable to include a provision similar to that contained in the fifth article of the Turlington draft regarding the passage of the Straits.

4. When you have prepared a draft treaty, it would be helpful to have it telegraphed at once in full to the Department. In order to take advantage of lower rates you may wish to arrange with the Paris Embassy to have it sent via the French cable.

HUGHES

711.672/65 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 2, 1923—1 a.m.*
[Received 5:30 a.m.]

393. Two treaty drafts have been prepared in consultation with Hackworth. Our first draft, which is predicated in general upon most-favored-nation treatment, contains somewhat detailed provisions based on the Allied establishment convention and on the Department's draft sent with Turlington, with modifications suggested by the Spanish draft.[72] Our second draft rests entirely upon a general most-favored-nation article, and omits all detailed provisions . . .

. . . . . .

In both drafts it is provided that the treaties heretofore concluded between the United States and Turkey shall, except as otherwise provided, absolutely cease and terminate on the date of the coming into force of the present treaty. The abrogation of the capitulations is accepted by the high contracting parties, each insofar as it is concerned. The rights of the American consular courts in Turkey to constitute in due course cases actually pending are not prejudiced by provisions of this article.

Articles on naturalization, claims, diplomatic and consular relations, and affirmation of extradition treaty occur in both drafts.

The second draft, which is also the shorter, appears to have the following advantages:

(1) Its practical benefits appear to be not inferior to those conferred by the longer draft.

(2) It will save time in negotiation. The conference seems to be nearing its close, and the Turkish delegation is impatient to return to Angora.

(3) The mood of the Turkish delegation is so acutely sensitive that they will be prone to examine the text of the treaty laboriously and in detail.

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[72] See draft treaty of friendship and commerce, p. 832.

(4) In view of the fact that the stability of the present Turkish government is not yet assured and that in a year or two we may obtain better terms, it should be desirable to avoid detailed provisions.

(5) The view advocated by Admiral Bristol that, for the present, the detailed provisions of a treaty are of less practical value than particular solutions worked out locally, and serving as precedents.

These considerations incline us to favor the shorter draft. But we can readily understand that the Department may be moved by other considerations to decide upon the longer one. Public opinion in the United States and opinion in the Senate might be more favorably impressed by the more detailed instrument, and a specific statement of guarantees for the future may inspire greater confidence among business circles which have interests in Turkey. It would be helpful, therefore, if the Department would send us an expression of its views or draw up instructions for our guidance in preparing a draft for presentation at our meeting on Monday with the Turkish experts. The short draft is the one we favor.

GREW

711.672/57 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 2, 1923—3 p.m.*

164. Referring to telegram 150 of May 24, from the Department. It is obvious that the greatest caution should be exercised in phrasing the article providing for the abrogation of the capitulations, in order that there may be no ground for contention on the part of Turkey that the retroactive effect of abrogation of the capitulations is recognized by this Government. You should bear in mind the situation in other countries, such as China, where we now enjoy capitulatory rights. The situation may perhaps be met by framing an article to the effect that as between the United States and Turkey the treaties by which the capitulatory rights were obtained are superseded by the present treaty. The words "as between the United States and Turkey" should be inserted in order that our present capitulatory rights may not be prejudiced in Egypt and other territories detached from the Ottoman Empire since 1830, lest we should be met with the claim in these territories that our treaty of 1830 is the sole basis of our capitulatory rights there.

A better plan would be to omit any reference to the capitulations, and to provide that the existing treaties and arrangements between the two countries shall be superseded by the treaty now under nego-

tiation. You might have difficulty, however, in obtaining this arrangement.

The Department regards it as important that the Turks should understand clearly that no formal renunciation of our capitulatory rights was intended in our preliminary statements expressing a willingness to have the capitulations abrogated. Only through the ratification of a new treaty is such renunciation possible.

HUGHES

711.672/92

The Special Mission at Lausanne to the Secretary of State

No. 30–A LAUSANNE, *June 2, 1923.*
[Received June 21.]

SIR: I have the honor to transmit herewith one copy of the long form of treaty prepared by Mr. Hackworth and Mr. Turlington, as well as one copy of the short form of treaty, as mentioned in my telegram No. 393, June 2, 1 a.m.

One copy of each of these two forms is also being sent to the Embassy in Paris in case the Department desires the text transmitted by wire to Washington.

I have [etc.]

For the Mission:
F. L. BELIN
Secretary General

[Enclosure 1]

Draft for Short Form of Treaty between the United States and Turkey

PREAMBLE

The United States and Turkey, recognizing that the treaties heretofore concluded between the two countries do not correspond to the changed conditions in Turkey,

And desiring to provide a satisfactory basis for the conduct of the relations between the two countries,

Have decided to conclude a treaty for that purpose and to this end have appointed,

The President of the United States . . . . . and

The . . . . . .

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

On the date of the coming into force of the present treaty, the treaties heretofore concluded between the United States and Turkey, shall, except as otherwise provided in Article VI hereof, absolutely cease and determine.

The High Contracting Parties, each in so far as it is concerned, accept the abrogation of the Capitulations.

The provisions of this Article are without prejudice to the right of the American Consular Courts in Turkey to conclude in due course cases actually pending in such Courts.

ARTICLE II

The nationals of each of the High Contracting Parties in the territory of the other shall, in regard to their persons and property, be received and treated in accordance with the general usages and practices of modern civilized nations. They shall enjoy the most complete and constant protection for their persons, property, rights and interests and upon submitting themselves to the applicable laws and regulations of the country, they shall be accorded all such rights, privileges and immunities, of any kind whatsoever, as are or may be accorded to the nationals of the most favored nation.

In like manner, limited liability and other companies and associations, whether or not for pecuniary profit, which have been or hereafter may be organized in accordance with the laws of the United States or Turkey and which maintain central offices in the country in which they have been or may be organized, shall, upon complying with the applicable laws and regulations of the other country or of any part thereof, be recognized and permitted to transact their business or industry in the territory of such country upon an equal footing with like companies and associations of the most favored nation.

In all that pertains to commerce and navigation, each of the High Contracting Parties shall extend to the other and the nationals, companies, and associations thereof, any rights, privileges, immunities or exemptions which are or may be accorded to any third country or to the nationals, companies and associations of such country.

The stipulations of this Article do not extend to the treatment accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which may hereafter be concluded by the United States with Cuba or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

Article III

Each of the High Contracting Parties shall be entitled to maintain in the territory of the other diplomatic and consular representatives, who shall be accorded treatment as favorable as that which may be accorded to the diplomatic and consular representatives of any other country in pursuance of the provisions of international law or of special agreements concluded or to be concluded.

Article IV

Each of the High Contracting Parties, under reserve of the right to prohibit the expatriation of its nationals in time of war, binds itself to recognize the voluntary naturalization of any of its nationals within the territory and in accordance with the laws of the other Party as having the effect of investing the person so naturalized with the exclusive nationality of the other party and entitling him to treatment as such. However, a person so naturalized who renews his residence in his country of origin without the intention to return to the country of his adoption shall be held to have renounced his acquired nationality. The intention not to return to the latter country may be presumed to exist when such a person shall have resided more than two years in his country of origin.

The provisions of this Article shall be applicable to persons formerly of Ottoman or Turkish nationality on the one hand and persons formerly of American nationality on the other hand who have been or shall hereafter be naturalized in the United States and Turkey, respectively.

Article V

All claims of American nationals, companies or associations for indemnification on account of injuries, losses or damages of any kind attributable to the Turkish Government and all claims of nationals, companies or associations of Turkey for indemnification on account of injuries, losses or damages attributable to the Government of the United States which shall have been filed with their respective Governments within one year of the coming into force of this treaty, shall be submitted for adjudication to a mixed commission to be constituted within a period of one year after the coming into force of this treaty. The commission shall be composed of two members, one appointed by each of the High Contracting Parties. The two Governments shall by agreement select an umpire to decide upon any cases concerning which the Commissioners may disagree or upon any points of difference which may arise in the course of their proceedings. Should one of the Commissioners or the umpire die or retire, or for any reason

be unable to discharge his duties, the same procedure shall be followed in filling the vacancy as was followed in appointing him.

The commission shall meet at . . . . . prior to the expiration of a period of fifteen months from the coming into force of the present treaty. They may fix the time and the place of their subsequent meetings according to their convenience.

The commissioners shall keep an accurate record of the questions and cases submitted and correct minutes of their proceedings. To this end each of the Governments may appoint a secretary, and the secretaries shall act together as joint secretaries of the commission and shall be subject to its direction.

The commission may also appoint or employ any other necessary officer or officers to assist in the performance of its duties. The compensation of such officer or officers shall be subject to the approval of the two Governments. Each Government shall pay its own expenses including the compensation of its own commissioner, agent or counsel. All other expenses which by their nature are a charge on both Governments, including the honorarium of the umpire, shall be borne by the two Governments in equal moieties. The two Governments may designate agents and counsel who may present oral or written arguments to the commission.

The commission shall receive and consider all written statements or documents which may be presented to it by or on behalf of the respective Governments in support of or in answer to any claim.

The decisions of the commission, or of the umpire (if any) shall, in each case, be based upon the applicable principles of law and equity and the provisions of the treaties in force at the time of the injury, loss or damage sustained.

The decisions of the commission and those of the umpire (if any) shall be accepted as final and binding upon the two Governments.

Article VI

The extradition treaty concluded between the United States and Turkey in 1874 is reaffirmed with the addition to Article II of that treaty of the following paragraphs:

9. Swindling, by which is understood the obtaining of money under false pretenses, when the amount involved exceeds $200.00.

10. Perjury; subornation of perjury.

11. Abduction; kidnapping.

Article VII

The present treaty shall come into effect on the date of the exchange of ratifications and shall remain in force for five years from that date.

In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said five years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it.

ARTICLE VIII

This treaty shall be ratified and the ratifications thereof shall be exchanged as soon as possible.

In Witness Whereof, the respective Plenipotentiaries have signed the present treaty and have thereunto affixed their seals.

Done in duplicate, in the French language, at Lausanne, the . . . . . day of June in the nineteen hundred and twenty-third year of the Christian Era, corresponding to the . . . . . day of . . . . . in the . . . . . year of . . . . . .

[Enclosure 2]

Draft for Long Form of Treaty between the United States and Turkey

ARTICLE I

On the date of the coming into force of the present treaty, the treaties heretofore concluded between the United States and Turkey, shall, except as otherwise provided in Article XVII hereof, absolutely cease and determine.

The High Contracting Parties, each in so far as it is concerned, accept the abrogation of the Capitulations in Turkey.

The provisions of this Article are without prejudice to the right of American Consular Courts in Turkey to conclude in due course cases actually pending in such Courts.

ARTICLE II

The nationals of each of the High Contracting Parties in the territory of the other shall, in regard to their persons and property, be received and treated in accordance with the general usages and practices of modern civilized nations. They shall enjoy the most complete and constant protection for their persons, property, rights and interests and upon submitting themselves to the applicable laws and regulations of the country, they shall enjoy equality of treatment with the nationals thereof and with the nationals of the most favored nation in regard to freedom of access to the courts of justice and liberty of religious belief and worship; and the acquisition, possession and disposition of movable property. In regard to the right to enter, travel, and reside; to engage in the various kinds

of commerce, professions, industries, enterprises, and activities; and to own, occupy, and dispose of real property they shall be accorded treatment no less favorable than that which is or may be accorded to the nationals of the most favored nation.

ARTICLE III

Limited liability and other companies and associations, whether or not for pecuniary profit, which have been or hereafter may be organized in accordance with the laws of the United States or Turkey and which maintain central offices in the country in which they have been or may be organized shall, upon complying with the applicable laws and regulations of the other country or of any part thereof, be recognized and permitted to carry on their activities in the territory of such other country and to enjoy such rights with respect to real property as are or may be accorded to similar companies and associations of the foreign nation most favored in this respect. In regard to access to the courts of justice and the acquisition, possession, and disposition of movable property they shall, upon submitting to the applicable laws and regulations, enjoy equality of treatment with similar companies and associations of the country or of the most favored nation.

ARTICLE IV

The dwellings, warehouses, manufactories, shops, and other buildings occupied by nationals, companies, or associations of each of the High Contracting Parties in the territory of the other, and all premises appertaining thereto, shall be respected. There shall be no domiciliary visit to or search of such buildings or premises and no examination or inspection of books, papers, or accounts, in such buildings or on such premises, except under the conditions and with the forms prescribed by the laws, ordinances, and regulations for nationals of the country in which such buildings and premises may be, or for the citizens or subjects of the most favored nation.

ARTICLE V

The nationals of each of the High Contracting Parties shall be exempt in the territory of the other from all compulsory military service whether on land or sea; from all contributions imposed in lieu of military service and from all forced loans, military exactions and contributions.

ARTICLE VI

In all that pertains to imposition and collection of taxes, imposts and charges of any kind and to exemptions from such taxes, imposts

and charges the nationals of each of the High Contracting Parties residing or being within the territory of the other, shall be accorded treatment as favorable as that which is or may be accorded to the nationals of the nation most favored in this respect.

In like manner, limited liability and other companies and associations organized and maintaining their central offices in the territory of one of the High Contracting Parties and carrying on their activities within the territory of the other, shall, in relation to the imposition and collection of taxes, imposts and charges of any kind and in relation to exemptions from such taxes, imposts and charges, be accorded treatment as favorable as that which is or may be accorded to similar companies and associations of the nation most favored in these respects.

Article VII

In matters of personal status and domestic relationship (including all questions in regard to marriage, conjugal relationship, divorce, judicial separation, dowry or curtesy, paternity, affiliation, adoption, capacity, majority, guardianship and interdiction) and in matters concerning the right of testamentary or intestate succession to movable property and the distribution and liquidation of such property, the nationals of the United States in Turkey shall be subject only to the jurisdiction of the tribunals or other national authorities of the United States or the appropriate state, territory or possession thereof. Turkish tribunals may, however, if all the parties submit in writing to the jurisdiction of such tribunals, decide in accordance with the laws of the United States cases involving questions of the character above indicated. Such tribunals may also require and receive proofs relative to such questions in so far as may be necessary in the determination of questions coming within their competence.

The present provisions do not prejudice the special attributions of Consuls in the matter of civil status under international law or under separate agreements which may be made. With respect to such attributions, American Consuls in Turkey shall be placed on an equal footing with the Consuls of the most favored nation.

All questions of judicial competence shall, except as above provided, be regulated in conformity with the applicable principles of international law.

Article VIII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels

and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Article is designed to restrict the right of either High Contracting Party to impose prohibitions or restrictions of a sanitary character for quarantine purposes designed to protect human, animal, or plant life within its territories.

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

Article IX

No higher or other duties shall be imposed on the importation into the territories of either of the two High Contracting Parties of any article of the growth, produce or manufacture of the territories of the other Contracting Party, than are, or shall be, payable on the like article of the most favored nation; nor shall any other or higher duties or charges be imposed in the territories of either of the Contracting Parties on the exportation of any article to the territories of the other than are, or shall be, payable on the exportation of the like article to any other foreign country; nor shall any prohibition, restriction or condition be imposed upon the importation or exportation of any article of the growth, produce or manufacture of the territories of either of the Contracting Parties, to or from the territories of the other, which shall not equally extend to the like article of the most favored nation.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have

accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE X

The nationals of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment with the nationals of the country and the nationals of the most favored nation in all that relates to warehousing, bounties, facilities, drawbacks, and the examination and appraisement of merchandise.

ARTICLE XI

No tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries, respectively, from whatever place they may arrive and whatever may be their destination.

ARTICLE XII

Merchant vessels navigating under the flag of the United States or that of Turkey and carrying the papers required by their respective national laws to prove their nationality shall in Turkey and in the United States be presumed to be vessels of the United States or of Turkey.

ARTICLE XIII

The nationals of each of the High Contracting Parties shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights as may be accorded the nationals of any other country with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

Articles XIV to XVII, both inclusive, are the same as Articles III to VI, both inclusive, in Short Draft Treaty.

711.672/65 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 3, 1923—3 p.m.*

165. 1. Referring to Mission's 393 of June 2, and in reply to your inquiry about the form of the proposed treaty, you should attempt by every means to obtain the assent of the Turks to the longer draft. My decision is based on the following important considerations.

(*a*) On no account should you accept a treaty which is inferior in any respect to the Allied treaty, or declarations and letters relating to the administration of justice and to the protection of our religious and educational institutions in Turkey which do not contain guarantees as full as those accorded in declarations and letters presented to the Allies. Should Ismet seem disinclined to treat with you on this basis he should understand clearly that you can not go on with the negotiations. It seems wise to proceed with the negotiations, provided we can now obtain by express treaty provision all the privileges which the Allies are to receive together with a promise for the future of most-favored-nation treatment.

(*b*) It is not desirable that the United States should derive its rights only indirectly from and as a beneficiary of negotiations which are being carried on simultaneously with its own and in which it has taken an important part. We should include in our own treaty all stipulations by which we expect to benefit.

(*c*) While it is desirable to obtain a most-favored-nation clause as a guarantee of the future, yet with regard to rights which we are now claiming we cannot rely entirely upon such a clause. It would not be satisfactory to possess fluctuating rights, subject to variations in the rights of other powers. As other powers acquire new rights our position should be progressively improved through operation of the most-favored-nation principle, but concessions which other powers may make could not undermine our position. Our treaty should be complete in itself so far as our present requirements are

concerned, and it should not leave the nature and extent of our rights dependent upon the provisions of other instruments. If we should base our rights upon the Allied treaties, and if subsequently a war or other unforeseen event should render those treaties void, we should have got ourselves into an undeniably difficult position.

(*d*) The above principle forms the basis of the treaties which this Government has concluded in the past. A most-favored-nation clause is to be found in nearly all our general commercial treaties which, moreover, do not look for any sanction outside of themselves.

(*e*) The Department feels that a treaty which did not contain in itself specific provisions for the protection of our interests would be very difficult to explain to the satisfaction of our people here.

2. It is for these reasons that you are desired to adopt the longer draft as a basis for your negotiations. It is assumed that you have included in the long draft not only the detailed provisions referred to in Mission's 393, but also stipulations for a general unconditional most-favored-nation treatment in the sense of the provisions of the Spanish draft.

3. As regards the abrogation of the capitulations, the formula you propose is approved, but it is also suggested that the point mentioned in Department's 164 of June 2 might be covered by some additional phrase, referring to our capitulatory rights in territories detached from Turkey and recognizing abrogation as between the United States and Turkey. This alteration may call for minor transpositions.

4. Is it your intention that any of the provisions of the Allied commercial convention be included in our draft? Provided we are assured of most-favored-nation treatment the Department would not object to postponing the elaboration of the tariff regime if you so desire.

5. It is assumed, as indicated in the Department's earlier communications, that you are to receive from Ismet written assurances regarding schools such as the Allies expect to receive. It is important also to obtain in writing the additional assurances expressed to the subcommission by the Turkish delegate. (See Mission's despatch 18–A, enclosure 6 [*10*], forwarding report.[73])

6. It would be desirable in the draft declaration upon the administration of justice in Turkey to drop the adjective "European" in referring to "legal counsellors" which the Turks will employ. You should also bear in mind the possibility that the way can be left clear for the appointment of an American adviser. (See Department's general instructions,[74] paragraph 12.)

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[73] Despatch not printed; an extract from the report is printed *post*, p. 1148.

[74] See telegram no. 28, Apr. 19, to the Minister in Switzerland, p. 981.

7. It is suggested that you explain to the Turkish delegation when you present your draft, that you are not bound by the phrasing as it is in tentative form only. The Department wishes you to telegraph the full text.

HUGHES

767.68119P/55a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 11, 1923—7 p.m.*

180. 1. A large part of the American public is keenly interested in provisions for the protection of minorities in Turkey, and the Department feels that this country would fail to approve an arrangement with Turkey which did not deal with this subject. The intention of the Turks with regard to minorities is indicated in section III, articles 36 to 44 of the draft treaty,[75] which, as the Department notes, the Turks have accepted without modification. You should discuss this matter with Ismet as soon as possible, and suggest to him that it would be desirable to receive from him a voluntary statement giving expression to the principles contained in articles 36 to 44 but omitting reference to supervision by the League of Nations contained in article 43. The statement should be addressed to you as plenipotentiary, and should be in the form of a written declaration on behalf of the Turkish Grand National Assembly. You should telegraph the Department before taking this step if you perceive any objections to it.

2. The Department wishes to know whether it will be possible for you to get from Ismet a declaration regarding schools, in the form described above, and embodying the declaration and pledges which are set forth in the report of May 18 by the subcommittee on schools.[76]

The Department has been consulting with Dr. Gates[77] on the problems of schools in Turkey. His view of the situation is very reasonable, and he recognizes that the good will of the Turks must be secured before new schools are established and privileges obtained for them if Turkish sovereignty is to be recognized on Turkish territory. Dr. Gates has suggested that we might fall back on the principle of reciprocity and agree that in Turkey Americans should receive all privileges which are accorded to Turks in America and which they are disposed to exercise. The Department has examined,

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[75] Great Britain, Cmd. 1814, Turkey No. 1 (1923), pp. 698–702.
[76] An extract from the report is printed *post*, p. 1148.
[77] Dr. Caleb F. Gates, president of Robert College

however, the various state laws governing the founding of schools by foreigners, and has concluded that because of the wide diversity of provisions in the various states and because in certain states privileges might be denied which are especially important to American schools in Turkey, the principle of reciprocity would fall short of the requirements of the case. The Department will not, therefore, attempt to secure a clause of the sort indicated in its telegram of June 8, number 174.[78]

It is a matter of especial concern to Dr. Gates that schools be confirmed in the right to own real property and to hold it in their various corporate names. The general question of the right to own real property has been discussed in other telegrams, and the Department feels that it would not be wise to try to treat the rights of schools as a separate question. Instead of trying—and perhaps unsuccessfully—to obtain treaty provisions for matters of detail, it will be better to solve the various problems of the schools by direct understandings with the Turks. You should keep this matter in mind, however, and endeavor to secure for our educational, missionary, and philanthropic enterprises in Turkey every possible protection.

3. In what form will the Turks make their declaration on judicial reforms? Will they address it to you and to the chiefs of the Allied delegations specifically? Does it seem probable that a way will be left open for the nomination of an American adviser, and has the phrase "European judicial adviser" been changed?

HUGHES

767.68119P/56 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 13, 1923—10 p.m.*
[Received June 14—4:23 a.m.]

422. Your telegram 180 of June 11.

1. I shall discuss with Ismet the desirability of the Turks addressing to the United States a voluntary statement setting forth the principles which are embodied in articles 36 to 44 omitting the reference in article 43 to supervision by the League. I believe, however, that the appropriate time to bring up this matter will come at a later stage of our treaty negotiations. If I try to pave the way in the various conversations I am having with Ismet there will be a better chance of securing such a declaration. If I should make the suggestion now there would be the danger of a definite refusal.

[78] Not printed.

2. We reminded the Turkish delegation yesterday that it was our definite understanding that they should make to the United States a statement concerning property and institutions not less favorable than that arranged with the Allies. We added that it was conceivable that the Turks might desire to be more generous in their statement to us. They told us that at the appropriate time Ismet would answer, but that probably the statement would be identical with that made to the Allies, as the Turks would be embarrassed in their relations with the Allies were there to be a variation.

3. While the judicial declaration [79] will be an instrument of the treaty of peace between Turkey and the Allies its provisions will apply to all nations, being addressed to no nation or nations in particular.

We have not been able to have alterations made in the phrases "European judicial advisers" and "whom it will select from among jurists nationals of countries which did not take part in the war of 1914–18". On several occasions, however, Ismet has indicated that Turkey would not be prevented by the judicial declaration from appointing other advisers than those provided in the declaration to assist her in working out her domestic problems and that considering their political disinterestedness Americans would in all probability be chosen as advisers. The jealousy of the Allies would be aroused by any change in the present wording of the declaration and any such change would also open the way for insistence by the Soviet Government upon a Russian adviser, which could not be tolerated. In declining to address a separate declaration to the United States the Turks offered the same arguments. See our telegrams 263 of April 27 and 315 of May 11.[80]

I had a confidential discussion of this question some time ago with Montagna who is the foreign delegate inclined to be most in sympathy with us. He told me that he personally, and probably the Italian Government, would heartily favor providing for an American adviser in the declaration but that unquestionably the other Allies would suspect us of seeking to gain an "inside track". This would lead to friction, suspicion, and embarrassment, weakening our position at the conference. Montagna strongly advised me therefore not to proceed with this project. With both the Turks and Allies opposed I do not feel it possible to have the desired provision inserted in the declaration, and that the better way will be to take the matter up through diplomatic channels after the signing of the peace treaty.

GREW

[79] For text of the Montagna formula, Feb. 4, see p. 995; for text of the July 24 declaration, see p. 1139.

[80] *Ante*, pp. 989 and 1059.

767.68119P/56 : Telegram

The Acting Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 19, 1923—3 p.m.*

188. For Mission's information. In a large number of resolutions and letters coming to the Department the view is expressed that the United States should not enter into any treaty with the Turks which does not make provision for safeguarding the lives and property of Christians who still remain in Turkey.

The view mentioned above would be met to a large extent by the procedure suggested in our telegram 180 of June 11, point 1.

PHILLIPS

711.672/93 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 20, 1923—4 p.m.*

[Received 6:20 p.m.]

441. The following points were discussed yesterday at a meeting with the Turkish experts.

As regards naturalization, it was pointed out by the Turks that Turkish citizens naturalized abroad, even when naturalization has had assent of Turkish Government, are not entitled by law to return to Turkey. In the end, however, the Turkish representatives agreed to accept our naturalization article subject to the express reservation of right to exclude any expatriated Turkish citizens from Turkey. No reference was made to the disabilities with regard to inheritance imposed upon expatriated Turks by the Turkish law. Choice seems to lie between accepting Turkish amendment to our naturalization article as above, or dropping article altogether. Public opinion in the United States may disapprove the Turkish reservation, but for Turks naturalized in the United States it represents definite improvement over present situation. In dealing with claims also the naturalization article should be useful even if it carries the reservation.

The Turks wished to have some indication of the sort of claims we would present. We will discuss this matter at greater length today, and will make use of memoranda on claims filed with the Department.

The Turks suggested negotiating a new treaty on extradition. They seem to have examined our recent extradition treaties and object to our treaty of 1874 as antiquated. In reply we suggested

that, time being short, we adopt our article on extradition for the present but with the understanding that later we will negotiate a new treaty. They have agreed to prepare a draft reproducing the treaty of 1874 with (*a*) modifications which they deem immediately important and (*b*) article 18 as proposed.

GREW

467.11 W 89/2 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 20, 1923—midnight.*
[Received June 21—5 : 15 a.m.]

442. This afternoon Shaw, Turlington, and two Turkish experts met to discuss American claims. The American experts avoided describing claims in detail but indicated that a majority of those claims which have been called to the attention of the Department but not finally passed upon as yet are for loss of life or property since 1914. Obviously the Turks desired to examine claims. They said that without doing this they could not intelligently agree as to a mode of settlement. The Turkish experts explained their attitude regarding claims at length. In brief their proposal is that the American claims be divided into the following categories:

1. Claims which were presented to the Government of the Ottoman Empire prior to 1914. They desire to refer these with all pertinent papers in present condition to the Turkish courts to be decided, due regard being had to the abrogation of capitulations.
2. Claims which arose prior to 1914 but which were not presented to the Ottoman Government. They desire that these should also be referred to the Turkish courts, regard being had, as in class 1, to the abrogation of capitulations.
3. Claims arising since 1914. For these the Turks propose the following procedure:

(*a*) All claims must be presented by interested persons within six months of the coming into force of the treaty to a government bureau at Constantinople. This bureau will examine the claims and seek to settle directly with the claimants.

(*b*) Claims which are not settled through the government bureau shall be examined during a further six months' period by the American and Turkish Governments in an endeavor to find a mode of settlement by referring the claims to Turkish courts, by arbitration, or in some other manner in accordance with the nature of the claims.

Our two experts emphasized that it was our desire to have occasion for friction removed by a treaty provision by which existing claims would be settled in accordance with judicial principles, and that a mixed tribunal of arbitration such as we proposed could most appropriately consider the extent to which the present Turkish Government

was under obligation as successor to the former Ottoman Government and other issues which appeared to cause the Turks particular concern.

We suggest for the consideration of the Department the possibility of our accepting a treaty provision that claims arising subsequent to 1914 be registered in a government bureau within six months, with the further provision that during an additional period of six months efforts shall be made to bring about a settlement between the American and Turkish Governments. It would be provided that all claims for the settlement of which no other method is agreed upon shall be presented to the mixed tribunal of arbitration which is contemplated in the 17th article of our draft treaty.

Instructions are requested.

GREW

767.68119P/57 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 21, 1923—noon.*

[Received 1:24 p.m.]

444. Your no. 188 of June 19, 3 p.m. As I fully realized that everything possible should be done to meet the situation you described, I had a conversation of an hour and a half yesterday with Ismet in which we discussed the desirability of the Turks making a voluntary statement to us with respect to the protection of minorities. I am afraid that I made no progress. Ismet argued that such a statement would be a one-sided engagement which would legally bind Turkey but would have neither the reciprocal nature of the minority agreements between Turkey and the Balkan States nor the control which the League of Nations would exercise over the minority clauses of the treaty with the Allies. It does not seem possible to convince Ismet that we are not seeking to bind Turkey to more than her present engagements. It does little good to speak of the need for satisfying public opinion in the United States because Ismet always counters by asserting that public opinion in Turkey must be given equal consideration. He constantly referred to the good will, if not open favoritism, shown by Turkey to America and clearly stated that it would make a painful impression at Angora were we to request such a statement concerning minorities. Ismet declares that our delegation has influenced the treaty negotiations with the Allies, especially the clauses concerning minorities, by our statements and active participation in the conference, and that since it is the aim of these clauses to safeguard all minorities, the publication in America of these clauses together with an explanation of our part

in influencing their acceptance should be enough to reassure the American people. Ismet added that it is the intention of Turkey to speak in the future louder by acts than by words.

I am sorry that I can see no prospect of securing this statement unless the Department has some other method of procedure to propose. Mere arguments do no good, and I am hesitant about suggesting more direct means of exerting pressure, for I cannot help feeling that good faith requires that we make no attempt to link our treaty obligations directly to this statement.

If thought best by the Department, I probably could arrange to have the Associated Press send a despatch from Lausanne explaining that the minority clauses in the treaty between Turkey and the Allies have universal applicability and setting forth considerations of any other kind which you might feel would reassure the American people. Unless I receive instructions I will not act along the line suggested.

This telegram is being repeated to Constantinople.

GREW

767.68119P/56 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 21, 1923—2 p.m.*

192. Point 3 in your telegram 422 of June 13.

1. The difficulty of having any change made in the formula with regard to judicial advisers is fully realized by the Department. However, considering the importance which has always been placed upon extraterritorial jurisdiction in Turkey in both our legislation and former treaties, when any treaty is presented here for ratification the question naturally will arise as to what safeguards are being secured as a compensation for giving up these privileges.

2. The Department believes it important, therefore, to have the proposed Turkish declaration communicated to you in a formal manner, so that this document could be sent to the Senate in transmitting any treaty, of course not for ratification or other formal action, but as an indication of the safeguards which the Turks propose to offer. It would be desirable if possible to have the word "European" before "judicial advisers" deleted when this communication is made to you.

3. Under the conditions described by you, the Department would not wish to have you make any further insistence upon the omission of the phrase "whom it will select from among jurists nationals of countries which did not take part in the war of 1914–1918." It is

the view of the Department, however, that it would be possible to find various formulas which could replace this phrase and yet not open the way for Soviet insistence upon a Russian adviser. As an example, the door would still be left open for the eventual appointment of an American adviser if provision were made that the jurists should be chosen from nationals of countries which had not been at war against Turkey. It is left to your discretion, however, to decide whether it is practicable to take any action along this line.

HUGHES

711.672/93 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 23, 1923—2 p.m.*

194. In reply to Mission's 441 of June 20. American citizens in Turkey and Ottoman subjects in the United States become, upon naturalization, aliens in the countries of their birth. First paragraph of proposed article on naturalization admits this principle.

The Government of the United States holds the view that the right to exclude aliens whenever their presence is deemed dangerous to peace and security is inherent in every sovereign state, and that unless the right has been renounced by treaty it is unnecessary to affirm it by express treaty reservation. This Government does not wish to assent to any treaty provision which might be construed to imply that reservation in a treaty is the sole basis of such right in a sovereign state.

Naturalized citizens are discouraged by the laws of the United States from returning for permanent residence in the countries of their origin. If within five years after naturalization in the United States a naturalized citizen returns for permanent residence in country of birth, cancellation of naturalization is provided for in act of June 29, 1906,[81] section 15. By the act of March 2, 1907,[82] it is provided that he is presumed to be no longer an American citizen when he has resided two years in the country of his birth.

The above information and the views of this Government should be communicated orally to the Turkish representatives, and an attempt should be made to obtain their assent to an article on naturalization omitting reservation.

It is the opinion of the Department that the treaty would not be acceptable in this country if it carried a provision of the sort proposed by the Turks.

HUGHES

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[81] 34 Stat. 596.
[82] 34 Stat. 1228.

767.68119P/64 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *June 23, 1923—4 p.m.*
[Received June 23—3:45 p.m.]

451. Your telegram 192 of June 21. It is my understanding that the formula suggested in your point 3 does not refer to the declaration to be attached to the Turkish treaty with the Allies but to the declaration which the Department proposes should be addressed to us by the Turkish delegation. For reasons set forth in our telegram of June 13, 10 p.m., I fear that it would not be advisable or useful to try to have the former modified.

Nothing which I can do will be left undone in endeavoring to have the Turkish delegation make the desired communication to us of the proposed judicial declaration with the modifications suggested in the second and third points of your telegram no. 192. I left the way open for this in my remarks to Ismet during conversations on April 26, and May 1, 10, and 31, in all of which I elaborated the importance which we attached to judicial safeguards. I must admit, however, that it will be hard to persuade him to take this action. I foresee that he will steadily evade the issue in all probability until our treaty is ready to be signed. Then will arise the question whether we are ready to require this as a condition of signature. Considering the present uncompromising temper of Ismet and of the Turkish Grand National Assembly, we must face the question as to whether the treaty itself might not be endangered by insistence upon our part.

If I find that Ismet is firmly opposed to communicating a separate declaration to us concerning judicial safeguards, with or without the desired changes, it might be practicable for me to arrange an exchange of notes with him. In my letter I would ask that the general applicability of the judicial declaration be confirmed. He would reply confirming the general application of the declaration of which he would attach a copy and would state that in a large measure its form and content are a result of the participation in the conference by American representatives, and that therefore he does not consider it necessary to give to us separate assurances in the sense of the declaration.

I would like instruction as to whether such an exchange of notes would be considered by the Department as serving the purpose indicated in the second point of your telegram no. 192. On such an exchange of notes mention might also be made of the general applicability of the minority clauses.

GREW

467.11 W 89/2 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 25, 1923—12 noon.*

196. Mission's telegram 442 of June 20. The acts and negligence of Turkish authorities during internal disorders form the basis for many of the claims which American citizens have against Turkey. It is not usual for domestic tribunals to have jurisdiction over claims of this nature against foreign states. In the past the Turkish Government has steadfastly refused to recognize responsibility for losses or injuries which were sustained under conditions such as those upon which these claims are based. Therefore should such claims be submitted to domestic tribunals there is no reason to expect satisfactory results. The proposal that claims be submitted to Turkish courts apparently gives retroactive application to the abrogation of capitulations. The American Government does not consider acceptable any proposal entailing such results. It is doubtful whether at the time the claims arose the Ottoman courts had jurisdiction in such cases as those which constitute a large majority of the claims. The Department is not willing to enter into a treaty agreement which will make it necessary for American citizens having claims which arose prior to 1914 to incur the expense and inconvenience of instituting action in Turkish courts.

The Department is anxious to have set up such a mixed arbitral tribunal as is proposed in your draft. A tribunal of this kind would have authority to examine all claims presented to it and to decide impartially the question of the liability of the Turkish Government and to fix the amount of indemnity justly due to the claimant. This method would be fair to the American and Turkish Governments and to the American claimants. It is the way in which civilized governments adjust claims of this kind. It is to be regretted that the Turkish Government should show a lack of willingness to use so fair a method of settling vexatious questions at issue between it and the American Government.

You should make every possible effort to obtain an agreement for the setting up of a mixed arbitral tribunal for the settlement of all claims whether they arose prior to 1914 or since then. Should you fail to achieve this arrangement the Department would consider proposal such as is suggested in your final paragraph, contemplating the registration of all claims within six months with a bureau of the Turkish Government, to be followed by the endeavor of the Governments of Turkey and the United States to settle the claims through diplomatic channels, any claims failing of settlement in this way to

be referred for final decision to a mixed arbitral tribunal. The agreement providing for the registration and diplomatic discussion of claims should also provide for the setting up of the mixed tribunal and for the reference to this tribunal of cases failing of diplomatic settlement.

HUGHES

767.68119P/64 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 26, 1923—4 p.m.*

200. Your telegram 444 of June 21 and final sentence of your 451 of June 23. The Department need not reemphasize how important it is to obtain assurances respecting the protection of minorities or how deeply the American people are interested in this problem. The Department would prefer the procedure suggested in its 180 of June 11 and would wish to have you press for such a formal statement if it were possible to obtain any practical results in that way. The Department would not, however, insist upon a question of form. It suggests, therefore, that you seek after appropriate preliminary talks to arrange with Ismet to have notes exchanged. In your note to him you would invite his attention to the various statements made at the Lausanne Conference by the Turkish delegates respecting their intentions to give ample protection to minorities. You would include a reference to the treaty provisions and ask the Turks to confirm their position. In their reply it is desirable to have the Turks not only refer to particular statements but also, as far as possible, cite the particular guarantees and provisions which it is the intention of Turkey to grant to minorities.

It is also to be desired that reference be made in any such exchange of notes to the extent to which the participation of the United States in the Lausanne Conference has been responsible for the attainment of the results achieved in this matter.

HUGHES

767.68119 P/64 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 26, 1923—5 p.m.*

201. Your telegram 451 of June 23. If you do not think it will serve any useful purpose to hold out for a separate declaration, the suggestion in the final paragraph of your telegram for an exchange

of notes would meet the approval of the Department. As indicated in our 180 of June 11, however, such a note should be formally addressed to you. We invite your attention to the phrase "and that he does not therefore deem it necessary to address to us separate assurances in the sense of the declaration". This the Department suggests should be omitted.

It is the understanding of the Department in sending this instruction that the declaration is to have general applicability and that it is not intended to address a separate declaration to any one or more powers. Naturally the Department would expect in the latter case that the Turks would observe the same formalities in communicating to you as they do in making the statement to the representatives of any other one or more powers.

HUGHES

467.11 W 89/4 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 6, 1923—4 p.m.*
[Received July 7—6:25 a.m.]

503. 1. Counterdraft on claims has been submitted by Turks, and is in substance as follows:

A. Nationals or companies of Turkey or of the United States having claims for injuries to their rights, property, or interests, and having before (date not fixed), 1917 presented their claims to the Government of the United States or to the Ottoman Government, shall have those claims continued under the same conditions against the Government of the United States and the Turkish Government. The abolition of the capitulations is to be taken into consideration in applying above provision.

B. Within six months from coming into force of present treaty, claims arising after (date not fixed), 1917, shall be filed with the proper Turkish authorities at Constantinople upon application of the United States Government or of the parties interested. All evidence of the origin, grounds, and nature of the claims shall be submitted at the same time. Two commissioners, one appointed by the United States Government and one by the Turkish Government, shall undertake an inquiry into the claims within a year from the time the treaty comes into force, with the object of arriving at a friendly settlement. If a settlement cannot be reached the two Governments will agree upon the naming of competent authorities to deal with the residue of unsettled claims.

C. Claims of Turkish nationals or companies arising after (date not fixed), 1917, shall be similarly dealt with.

D. By mutual understanding the responsibility of the Turkish Government for payment of indemnity does not go beyond 62 per cent of the amounts owing upon the claims.

2. We submit the following comments:

(*a*) April 20, 1917, is presumably the precise date contemplated as point of division between earlier and later claims. In general this proposal follows closely article 78 of the treaty with the Allies as given in *procès-verbal* of May 7. (See Mission's despatch 11–A of May 14.[83]) We have plainly signified to the Turks that we cannot give a retroactive recognition of abolition of the capitulations, and it has been our contention that all claims should be submitted to arbitration. On the former point the Turks accept our view. They explain that their proposal aims at preventing special tribunals, such as were in existence during capitulatory regime. Suits as well as claims are mentioned in the Allied treaty article, and language is clearer in reference to capitulations. Attention of the Department is called particularly to claims arising but not presented before 1917, for which no definite provision is made. It is not improbable that the Turks would be willing to have the proposed commission examine all claims.

(*b*) The Turks declare that until they are in possession of fuller information on origin and nature of American claims they cannot consent to submit these claims to arbitration on basis of the treaties and principles in force when the losses were incurred. In adopting this view they apparently have in mind our claims conventions with other countries, such as that with France of 1880,[84] with Great Britain of 1910,[85] and with Germany of 1922.[86] Their legal responsibility is not disputed, they say, in some cases, in which, therefore, a resort to arbitration is unnecessary. The proper remedy in other cases, as, for instance, in those involving acts of Turkish officials, might be a resort to the courts in Turkey which would apply the general rules of international law. In cases of unavoidable accident or of injuries in time of war it is possible that a court of arbitration might not preserve a proper distinction between the principles of justice and equity on the one hand and that solicitude on the other by which some states are moved to come to the relief of their nationals in circumstances of special distress. The Turks believe that the commission which they have suggested could be very usefully employed in examining the different categories of claims in order to devise the most satisfactory method of settlement for each class. Their proposal has the obvious defect, however, of postponing the question of a proper method of claims settlements.

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[83] Not printed; see *Conférence de Lausanne*, etc., deuxième série, tome I, p. 302.
[84] Malloy, *Treaties*, 1776–1909, vol. I, p. 535.
[85] *Foreign Relations*, 1911, p. 266.
[86] *Ibid.*, 1922, vol. II, p. 262.

(*c*) It is evident that the Turks look upon the provision for a settlement of their claims against the United States as perfunctory.

(*d*) The Department will hardly wish to be involved now in a discussion of questions of law and fact presented by the Turkish proposal for fixing the Turkish Government's proportionate share of the Ottoman Government's responsibility.

3. Our own experts feel that they can advance no further under present instructions, since the Turkish experts maintain position taken in their counterdraft. I should be glad to receive any additional instructions the Department may be disposed to give before I discuss the subject formally with Ismet.

GREW

467.11 W 89/4 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 9, 1923—5 p.m.*

225. Mission's telegram 503 of July 6. Paragraph A is not satisfactory as it does not provide for claims which arose before 1917 but which were not presented by that time, for claims due to death or personal injury, or for means of final settlement. This paragraph does not hold out any promise at all of progress in settling the claims.

With reference to paragraph B, the Department would be willing to undertake the registration of claims within six months. It does not feel, however, that the time allowed is sufficient for the preparation and presentation of evidence. It believes evidence should be admissible throughout the period of discussion. The lack of definite provision for final decision makes this paragraph unsatisfactory.

The Department agrees with your opinion regarding paragraph D.

In case the Turks are not willing to have all claims referred in the first instance to a mixed tribunal, the Department wishes you to try to obtain the adoption of the plan described in our 196, June 25, final paragraph. In order to meet the Turkish objection that information as to character of claims is lacking, the Department is willing to designate the general categories of claims to be included. The Department is anxious to have all outstanding claims settled and thinks that the adoption of a plan for that purpose will make for harmonious relations between the United States and Turkey.

HUGHES

711.672/110a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 10, 1923—4 p.m.*

228. Inasmuch as the Allied negotiations appear to be nearing a conclusion, it is desirable to examine the situation and to determine upon a course best suited to protect the interests of the United States. Upon due consideration the Department feels that our purposes would be best achieved by actively carrying along our negotiations toward an early settlement. You should give your best endeavors, therefore, to obtain signature of the treaty before adjournment of the conference.

No irreconcilable divergencies of views seem to stand between us and the Turks, and it should be possible to arrive at an adjustment of unsettled questions if the Turks are willing to extend to us the privileges which they accorded the Allies and to give the articles a clear and unequivocal phrasing.

It is apparent that Turkey will benefit more than will the United States by a resumption of normal relations between the two countries, but if our negotiations can be brought to a satisfactory conclusion this Government would be disposed to come to a prompt agreement with Turkey for the resumption of diplomatic and consular relations, and to give recognition *de jure*, which is implied in those relations and which should be of the greatest assistance to Turkey in reestablishing her relations with other countries.

Turkey herself, moreover, should understand how desirable it is to regularize her relations with the United States if she wishes to attract American business and not to allow the other powers to occupy the whole field of economic opportunity in the near future. Turkey should also see that unless diplomatic and consular relations are restored, American business would hardly be attracted by the opportunities to be found in Turkey.

When you make these representations to Ismet you should not permit him to suppose that you are unduly anxious to hasten the negotiations or that for the sake of a quick settlement the Department is ready to yield on questions of principle, but you should make it clear that the Department will spare no effort to settle pending questions in a way best suited to promote the interests of both countries, and is anxious to avoid the delay which might ensue if the negotiations were not completed before the conference breaks up. Since the negotiations have now begun, the considerations set forth in your 326 of May

13 [87] and in Department's 139 of May 17 regarding the desirability of negotiating with the Turks at Lausanne have even greater weight and relevance in regard to the early termination of the negotiations. If the conference adjourns immediately after the Allied treaty is signed it might be difficult to secure responsible Turkish representatives competent to carry on the negotiations with us in the near future. And since the Turkish electoral campaign is now in progress these difficulties will be augmented. Moreover, the whole field of the negotiations might have to be reviewed, and perhaps under less favorable circumstances, if the elections result in a change of Turkish leadership or policy. The Department believes also that at Lausanne the atmosphere is favorable to the negotiation of a treaty, especially since the Allies seem assured of a peaceful settlement.

After reading these instructions you are desired to draw up a brief statement of the principal points which will present difficulties in our negotiations in order to enable the Department as soon as possible to draft final instructions upon those matters which you feel will offer special difficulties. You are requested also to present to the Department for its consideration any provisions already agreed to by the Turks and the Allies which you think might be substituted for provisions of our draft which are now causing difficulty.

HUGHES

467.11 W 89/5 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 14, 1923—2 p.m.*

239. The Department suggests the following categories of claims:

1. Those which arise from death or personal injuries of American citizens.
2. Those which arise whether by contract or tort from the loss, use, or damage of property.
3. Other claims arising from contract or tort for loss or damage to which American citizens, companies, or associations have been subjected in respect to either person or property.

Claims have also been filed against Turkey by several protégés of the United States. These protégés are employes of consular or diplomatic missions. If it were possible it would be desirable to include provision in the claims convention to protect the interests of these protégé claimants. The advisability of raising this question with the Turks is left to your discretion.

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[87] Not printed

The categories given above are thought to be comprehensive enough to include all claims filed with the Department to date or which will probably be presented against Turkey. They may be used if necessary, but the Department considers it advisable if possible to make the description of claims to be settled by the commission in general terms as you have done in your draft. Difficulties will probably be increased by a discussion of details.

HUGHES

711.672/122 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 20, 1923—1 a.m.*

[Received 3 a.m.]

545. The question of taxes imposed upon Allied nationals in Turkey before the fiscal year 1922–23 and in disregard of the capitulations, has been settled by a compromise embodied in article 69 of the Allied treaty which corresponds to 75 of the original draft. This arrangement is probably the best the Allies could get, although it is not quite fair to those persons who have paid taxes under protest. It is reported that the possibility of attempts being made to enforce collection is very disturbing to Americans who did not pay taxes. So long as ratification of a treaty with us is in prospect it should be possible to stay collections by making representations to the Turkish authorities. But if once the treaty has been ratified, and if there has been no clear understanding beforehand, the Turks may try to take the ground that the utmost they are prepared to concede is represented by their compromise with the Allies. We should be warranted, on the strength of the position we take regarding the date of the effective abolition of the capitulations, in demanding not only that there should be no attempt to collect noncapitulatory taxes imposed before ratification of our new treaty, but also that taxes already paid under protest should be returned. We are not prepared to say how far our interests may be advanced by holding to our legal contentions on this point. Our opinion is that the Turks will be reluctant to give definite assurances that as against Americans they will not enforce collection of noncapitulatory taxes for any period before the new treaty comes into force, and we suppose that they will hardly agree to return noncapitulatory taxes already collected. Such assurances, on the part of Turkey, if they could be obtained, might be set forth either in a letter or in the minutes of a formal session, and might be merely a confirmation, in part, of our views on the existing situation. It is possible, how-

ever, that the Department may desire, under the circumstances, either to adopt the Allied compromise or to have us avoid altogether any discussion of the question during our negotiations. It might not be feasible to adopt the compromise by a simple exchange of notes or other informal procedure, since there are limitations upon the competence of the Executive to accept modifications of treaty rights. But perhaps the compromise might be included in our new treaty if accompanied by an express reservation upon the question of the date of the termination of our capitulatory rights. The Mission requests instructions.

GREW

767.68119P/57 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 20, 1923—5 p.m.*

247. It may prove helpful in presenting to Ismet the question of his writing you a letter indicating the intentions of the Turkish authorities respecting minorities, to call his attention to the fifth article of the Turkish National Pact concerning guarantees for minorities. The sixth article of the Franco-Turkish Agreement signed at Angora October 20, 1921, refers to this provision.

Should you be unable to obtain a more detailed statement as suggested in our telegram 180 of June 11, paragraph 1, it is possible that Ismet would not find any difficulty in confirming the provisions of the National Pact to you by letter.

HUGHES

711.672/122 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 20, 1923—9 p.m.*

251. Replying to Mission's 545 of July 20, relating to the question of taxes imposed on Americans in disregard of the capitulations, the Department believes that at this late date it would be better not to attempt a settlement by embodying a compromise in the treaty. The Department considers that it will still be in a position to settle the question of taxes by direct negotiations with Turkey, since the understanding is that nothing in the treaty will prejudice the Department's contention that the capitulations cannot be formally abrogated before the ratification of the treaty. But in view of the compromise

to which the Allies have agreed, the Department realizes that you may be unable to make our view acceptable to the Turks.

It now appears desirable to try to get treaty provision for most-favored-nation treatment as well as national treatment in the taxation of individuals. This view is impressed on the Department by the situation growing out of the collection of taxes and the Allied compromise which we may wish later to invoke. You are referred to Mission's 432 of June 16,[88] which provides for only national treatment, and to first paragraph of article 6 of original draft[89] which provides for most-favored-nation treatment.

HUGHES

711.672/124 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 21, 1923—2 a.m.*
[Received July 21—1:20 a.m.]

548. This morning Ismet Pasha called upon me. He touched upon some matters which have yet to be settled between the American and Turkish experts, and he then went on to ask whether it might not be desirable to leave all unsettled questions for future negotiation and to sign a treaty covering settlements already reached. I said in reply that our views did not accord with this suggestion; that, as Ismet himself had stated in his original note, both parties to the negotiations had set out with the sincere intention of reaching a conclusion, and that we were prepared, therefore, to remain at Lausanne for as long as might be required for that purpose. We had been waiting for nearly two weeks, as I also pointed out, in expectation of his entering upon direct negotiations with us, and we had so intimated repeatedly. In reply Ismet said that until a settlement had been reached he had every intention of remaining at Lausanne.

The following subjects were then taken up by Ismet: capitulations, modifications in the judicial declaration, claims, the Straits, language, naturalization, most-favored-nation treatment. To which I added: sanitary declaration, minorities, and taxes. I also made a reservation regarding text of articles already framed, especially those relating to consuls, until final instructions should be sent to me from the Department.

No concessions were made on either side, and the conversation was, therefore, little more than a full exchange of views. It was useful, however, in bringing directly to Ismet's understanding the full weight

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[88] Not printed.
[89] See draft for long form of treaty, p. 1080.

and cogency of our views on the various questions, and I did not fail to point out that in order to meet the wishes of the Turkish Government our experts had already made very substantial concessions. Ismet suggested that the experts meet again this afternoon to examine, on the basis of our conversation, the other questions which are still unsettled.

Mustafa Cherif and Tahir met with Shaw, Dolbeare, and Turlington this afternoon and debated for four hours, but without reaching any useful conclusions. The Turks agreed in the end to telegraph once more to Angora regarding article 2.[90] They pressed us again to postpone the matter of naturalization. They declared that they were willing to consider only claims growing out of requisitions. They agreed to give further study to our proposal on the article relating to the Straits.

In discussing the capitulations the Turks stated that since they had already agreed with the Allies regarding abrogation and were about to make similar agreements with other capitulatory powers, they could not now commit themselves to our view and include in the treaty a recognition of the principle that the effective abrogation of the capitulations takes place only upon ratification of the new treaty. They would make any practical settlements with us as touching the duration of the capitulatory regime; they would for example assent to a compromise similar to that made with the Allies in the matter of back taxes.

Under express instructions from Ismet the Turks refused to discuss the minority articles. They also declined to make any alterations in the declaration on the administration of justice. The American representatives informed the Turks that they were convinced nothing would be gained by drafting a treaty which left fundamental questions for later settlement and which as a whole would be unacceptable in the United States. Tomorrow Ismet will renew his discussions with me and I shall not fail to make it clear to him that we are dissatisfied with the Turkish attitude.

GREW

711.672/124 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 21, 1923—1 p.m.*

252. The views expressed in Mission's 548 of July 21, and especially the statements you made to Ismet and reported in the first paragraph are fully approved by the Department. You should endeavor to

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[90] See draft for long form of treaty, p. 1080.

meet every reasonable request of the Turks and use the utmost patience in your dealings. But as you have indicated in your telegram, the Department would not wish you to give consideration to a treaty which leaves fundamental issues for later settlement.

HUGHES

711.672/126 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 22, 1923—1 a.m.*

[Received 5:25 p.m.[91]]

550. Referring to Mission's 549 of July 21.[92] The final stand which Ismet takes in the negotiations is summarized below. He told me that he can go no further, and requested me to explain his position to the Department and ask for a definite and early reply.

He cannot admit into the establishment articles any formula for most-favored-nation treatment. The Allied convention contains the most that will be conceded.

If the treaty must contain a naturalization article it must also be accompanied by a reservation of the right of the Turkish Government to deny to naturalized United States citizens of Turkish origin the privilege of returning to Turkey.

The provision regarding capitulations contained in the treaty with the Allies is the most that Turkey can offer.

Ismet has offered to draft a clause dealing with claims and to refer it to his Government tomorrow but without taking any engagement. This formula will indicate as definitely as possible what the substance of our claims will be, but will not admit any claims arising from occupation of Turkish territory by armed forces of foreign powers.

Ismet will address to me as American plenipotentiary a declaration on judicial administration precisely identical with the declaration addressed to the Allied Powers.

Ismet declares that on the question of minorities he cannot address a letter of any sort to me or permit the subject to be mentioned in the treaty.

A satisfactory formula on the Straits will be found by the experts.

The experts will also study the question of taxes.

Ismet will take under consideration the sanitary declaration and will later communicate his decision.

In regard to the protection of institutions he will address to me a letter phrased precisely like that addressed to the Allied Powers.

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[91] Telegram in four sections.

[92] Not printed.

I have prepared a hasty and rough summary of Ismet's statements to me during our conversation this afternoon. In my replies I tried to present forcibly and clearly our attitude on each of the issues, but I have omitted my own remarks except where necessary to a proper understanding of the following report.

In the beginning of his remarks Ismet declared with emphatic reiterations that Turkey's sincere desire is to bring herself into intimate economic and political relations with the United States. He said that during all our discussions he had been guided by this feeling of friendliness which can best be demonstrated by actions rather than by speech. Turkey had already demonstrated in two ways this desire for intimate relations with the United States: (1) All that the Allies had obtained from Turkey after months of prolonged, painful, and laborious negotiation and under compulsion of a state of war, the United States was now receiving from Turkey at a stroke; (2) even before entering upon the treaty negotiations Turkey had had recourse to the United States in laying the foundations for a vast economic organization in Asia Minor. The sincerity of Turkey could be established by the evidence of these facts, and it was surprising that America remained unsatisfied. It was necessary, however, to meet the difficulties which had arisen. Ismet declared positively that the extreme limit to which the Turkish Government could go in concession was represented by what had been already yielded to the Allied Powers. At the very start of our negotiations Turkey had indicated clearly what she could concede and what she could not, and if at the end no agreement has been reached on some questions, it is because Turkey has not resorted to bargaining. All pending questions can be settled if we accept a single principle of settlement, namely, that all concessions made to the Allies, and no more, will be made to the United States. Ismet declared that Turkey is making a free grant to the United States of what had been extorted from her by the other powers.

He went on to say that it is to the principle, not the phrasing, of most-favored-nation treatment that Turkey objected. Turkey had never once contemplated discriminating against the United States, and would not now think of it. We were to get just what the Allies had received. He made the explicit statement that, with or without treaty provision, Turkey grants now and will continue to grant to the United States most-favored-nation treatment. But he said that it would hamper Turkey's efforts to make separate agreements later with other countries and under other circumstances if Turkey should now admit into our establishment articles a grant of most-favored-nation treatment.

As an illustration of the way in which the grant of most-favored-nation treatment to the United States might embarrass Turkey, Ismet

said that if British doctors should be permitted to practice in Turkey under a convention with Great Britain, and French lawyers to practice under a convention with France, and Italian engineers to practice under a convention with Italy, these privileges which had been designed to meet special requirements would become available to all countries indiscriminately. Agreements must vary with varying circumstances. The Turkish Government is very firm in its convictions on this point, and Ismet said that he could not reconsider his decision.

When we came to discuss the question of naturalization I explained that if we put into the treaty a reservation such as the Turks desired, we would seem to be casting a doubt upon the right of each nation to keep out aliens who are undesirable. The validity of this argument was denied by Ismet, and he maintained that Turkish sovereignty would be strengthened by the reservation. He said that his insistence on the point was not for the sake of making difficulties, but because he considered it a very serious matter for Turkey. He could not yield as the Turkish Government found it impossible to concede the point.

When Ismet mentioned the capitulations, I pointed out that in the beginning my Government had been absolutely opposed to their abrogation as it held the view that they would be automatically abrogated by the new treaty. My Government had, however, acted in the spirit of compromise and had displayed good will by accepting a formula abrogating the capitulations. Realizing the intensity of sentiment in the Grand National Assembly on this subject, the Government of the United States had tried to meet the wishes of Turkey, and had sanctioned the formula I had proposed to him the day before. Since we had tried to assist him in finding a way out of a difficult situation, I asked Ismet if he would not make possible for us a solution of the present difficulty. He replied that the principles which underlie the new treaties which Turkey has concluded are the principles upon which the future of Turkey must rest, and he thought that in order to allow no misunderstanding he ought now to make himself clear. Any attempt on the part of the United States to hinder the operation or alter the form of these principles would be evidence of a desire to thwart Turkey's aspirations for the future. To this I replied that by consenting to make any mention whatever of the capitulations, the United States had made a greater concession than had Turkey; that I saw serious obstacles for the treaty, as it was doubtful how far my Government would yield. He said that the instructions he had received from his Government were precise, and that it was plain that our respective instructions are irreconcilable.

I said also that at the meeting of the experts yesterday there had been no evidence on the part of the Turkish representatives to meet our wishes in the matter of claims, that we had received no satisfac-

tion and were much disappointed. We could not understand their indifference to what the United States might consider acceptable in the treaty. On our side we had spared no effort to comply with the wishes of Turkey. The draft treaty which we had prepared was modelled upon the latest treaties and agreements concluded between both great and small powers. But in order to meet the Turkish views we had altered this draft at almost every point. All we were asking of Turkey was equality of treatment with other foreigners, and we were offering the same in return. We had drawn upon international law and usage for every suggestion we had made. We regarded it as quite unfair that only one party to the negotiations should be expected to make sacrifices. We had already nearly reached the limit beyond which it would be impossible to go. A treaty which would be quite unacceptable to the people and Senate of the United States could not serve as the basis for the reestablishment of consular relations. We solicited from Turkey a just and magnanimous treatment as evidence of good faith.

Returning to the subject of claims I asked Ismet to read three short memoranda on claims arising out of war damages, acts of soldiers, and acts of authorities, as the bases of claims recognized by international law. I stated that as regards the acts of private persons, government liability was often involved in the acts of rioters, brigands, and mobs. He heard me attentively. I also laid before him a schedule of claims conventions which other countries had made with us. His Government's chief practical difficulty, Ismet said, was that they had no way of knowing what to expect; we were making only vague proposals. Our views were then set before him in detail. I told him that some of our claims were still being examined by our Government and that others were not yet filed. It would be impossible, therefore, to submit a definite list of claims. The sound claims could be sifted from those which appeared inadmissible after examination by a commission of the Turkish Government. The former could then be met and the latter referred for decision to some impartial tribunal. Ismet intimated that the Turks fear that they will be presented with claims for which they ought not to be held accountable. In reply I said that we could not possibly accept the offer made by the Turkish experts to consider only claims growing out of requisitions. Ismet stated that that restriction was his own suggestion. He was of opinion that pre-war claims and requisition claims were the only categories which his Government would accept. I told him that on that basis it would be useless to carry the discussion further. Thereupon he agreed that if we would have our experts draft a formula setting forth the nature of our claims as definitely as possible but omitting mention of claims growing out of occupation of Turkish

territory by armed forces of foreign powers he would refer it to his Government without taking any sort of engagement.

Ismet made the following remarks upon the question of minorities: The minority clauses in the treaty with the Allies is regarded by Turkey not as a pledge to all the powers, but only as an agreement between the interested powers, over which the League of Nations will exercise supervision. I said that in view of the principles which he had just stated to me, Turkey ought to grant to us what she proposed to grant to the Allies. He answered that it was necessary to consider that the powers with whom the agreement had been made were members of the League of Nations. If, for example, one of the provisions regarding minorities should be violated by Rumania, Turkey could appeal to the League to have the matter investigated. Ismet asked whether the United States would consent to be bound in the matter. In return I suggested that I address a letter to him stating that we had participated in the discussion of the minority clauses of the Allied treaty and inquiring about the general applicability of those clauses, and I asked whether he would answer my letter in the affirmative recognizing that we had participated in the discussions and specifying the provisions. He replied that to do so would be to take a definite engagement, and he could not therefore comply with my request. He wanted to know whether we proposed to receive similar pledges from Rumania, Yugoslavia, Greece, or other countries where minorities existed. The allied treaty, he said, contained the information for anyone to read, while a letter, whatever its form, might be used against Turkey as an instrument of direct coercion. In the end Ismet declined positively and decisively to consider the proposal.

During our interview I tried to give solemn warning that if the negotiations fell through, the reaction in the United States would be very unfortunate. American trade and finance would be reluctant to venture into Turkey before we should resume diplomatic and consular relations which would be impossible without the treaty. With the help of a diagram I showed Ismet that in every one of the questions still pending he gave no indication of trying to meet us halfway and was expecting us to come clear over to his views. I told him that we were prepared to remain in Lausanne until the negotiations had been brought to a conclusion, and that there must be no thought of postponement. He declared that the understandings upon which we had begun the negotiations furnished the basis of his position and that he could not change. It had been agreed that the United States was to receive what had been granted to the Allies and no more; he had not anticipated the issues with which he was now being confronted.

Ismet wished to know, if the negotiations should fall through, whether we could not represent our failure as due to lack of time, since he desired to keep from public knowledge the questions which we had discussed. I told him positively that we could not. I said that if the negotiations broke down we should be obliged to explain precisely and publicly where we had stood on every issue. And again I referred to the fact that a politically disinterested country like the United States could provide the economic assistance of which Turkey stood in need, and I spoke in detail upon the probable obstacles to economic cooperation which would result from the failure of our negotiations. Ismet said that while he felt the force of these observations, he did not yet see his way out.

Ismet returned to each point and summarized his position. I then inquired if he intended me to regard his statements as his last word, and whether I should so report them to my Government. He said that that was his wish. Most of these questions, he said, were of vital importance to Turkey and he was not free to discuss them; he had not refused to yield on questions in which he had liberty to act, and he had hoped that our treaty would be concluded at Lausanne and without delay. The difficulties with which he was confronted seemed insurmountable, but he had carried on the negotiations in honesty and good faith. I told him that I hoped that by Tuesday morning I should have received instructions from my Government. Ismet replied that he planned to return home as soon as possible, in order to superintend the ratification of the treaty of peace, but that in the hope of signing a treaty with the United States he would not quit Lausanne before Wednesday or Thursday.

This telegram is being repeated to the High Commissioner at Constantinople, and we are requesting him to send his comments directly to Washington. He will no doubt make recommendations suggested by the situation at Constantinople. In case the negotiations here are broken off there are two respects in which the consequences may be important, in respect to American interests in Turkey and in respect to the continued presence of the American High Commission at Constantinople. There is little doubt that the protection of our interests in Turkey will be extremely difficult after the conclusion of the treaty with the Allies and the consequent evacuation by the Allied forces if we cannot then appeal to a treaty of our own which the Turks recognize as in force. The Turks will almost certainly ask to have the High Commission withdrawn. We think that both of these contingencies should be given serious consideration. In case it is decided to discontinue the negotiations it would be very helpful if the Department would instruct us whether we are to attempt to

secure from Ismet assurances for the preservation of the *status quo*, and what the nature of those assurances should be.

GREW

711.672/126 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 22, 1923—11 p.m.*

255. The impression conveyed by Mission's 549 of July 21 [93] and 550 of July 22 is that the Turkish delegate is trying to rush you into assenting to his terms. His declarations that he cannot recede from the position he has taken on any point, that his proposals are final, and that this is his last word, appear to be a sort of ultimatum. If they are so intended you should make it clear that the tone which has been introduced into the negotiations has not made a favorable impression on the Government of the United States. We have not been at war with the Ottoman Empire, and we have demonstrated our good will toward the new government in Turkey by adopting its suggestion that, in preparation for the resumption of normal relations, a new treaty of amity and commerce be negotiated. Although during the past weeks the American representatives have been holding themselves at the disposal of Ismet Pasha for the discussion of the new treaty, this Government has refrained from pressing its affairs upon him out of consideration for his preoccupation with the task of making peace with the Allies which has first claim upon his time. (At this point you could give an exact exposition of the situation.) Now, however, after consuming eight months in negotiations with the Allies, he consents to remain in Lausanne for only two days for the purpose of concluding the negotiations with the United States which were undertaken at his instance. He has indicated, moreover, that the tentative agreements between the American and Turkish experts are to be withdrawn. (See particularly the Turkish proposal reported in Mission's 432, June 16.[93]) And he has coupled with this intimation a statement rather unpleasantly suggestive of an ultimatum. The Government of the United States finds itself obliged to state that it feels no pressing necessity to negotiate under these conditions.

The Department is willing, however, to have you proceed with the negotiations if Ismet Pasha is prepared to discuss with you in a spirit of conciliation the questions which remain unsettled. The Department also wishes you to state emphatically that while this

[93] Not printed.

Government is willing to discuss all questions in a spirit of reasonableness, to the end that a mutually satisfactory settlement may be reached, yet if the negotiations should break down it will find itself under the necessity of insisting that the existing treaties with Turkey, including the capitulations, are to be regarded as still in force pending a new treaty, and that its relations with Turkey will be governed by that view. This attitude of the United States Government should be brought forcefully to the attention of Ismet Pasha, as also the surprise of this Government that he is apparently indifferent to the due conclusion of negotiations which were undertaken on his initiative.

You should refute Ismet's contention that our apparent effort to get from him more than the Allies received has occasioned difficulties, by pointing out that there is no indication of such an effort in the mere fact that the wording of our proposed treaty differs in part from that of the corresponding articles in the Allied treaty. The legislation of the Allies and their relations with Turkey differ from those of the United States and call for different arrangements. Nor are Ismet's charges supported by the fact that we are seeking definite agreements upon certain issues which the Allies have chosen to leave for future settlements (namely the right to practice the professions). The Allies, moreover, are obtaining very important territorial and political settlements, while this Government does not seek provisions of that sort.

In expressing the willingness of this Government to conclude a consular convention, you should also point out that we have done more than the Allies were prepared to do, and we may reasonably hope, therefore, that on other points the Turkish Government will give due consideration to the views of the United States.

The Department has the following observations to make on Ismet Pasha's statement of his position:

1. It is assumed by the Department in regard to the articles on establishment that it was our article 2 to which Ismet's comments related. Is it his meaning that the texts as given in your 432 of June 16 and which the Turks had proposed are now to be definitely refused by the Turks? With regard to article 2 the Department is ready to assent to that proposal, provided a slight modification is made in the last paragraph in accordance with formula in Department's 170 and 231,[95] and in order to meet conditions regarding real property in the United States. If the Turkish delegation declines to accept the formula which they have themselves proposed you should let it be known that we on our side must withdraw the consular articles, which seem to have special value in the eyes of the Turks. You could then carry on the negotiations on the basis of the Allied establishment conven-

[95] Neither printed.

tion, articles 2–4, making special provision as above in the matter of real property.

2. You may omit the whole of the article on naturalization if the Turks will not accept the formula suggested in Department's 230 of July 10.[96]

3. Do Ismet's remarks on the capitulations signify that the Turks now reject the text of their own counterproposal of the 8th of March?[97] (Department's 220 of July 6, third paragraph.[96]) You should make every effort to have that formula accepted. You are also particularly directed to avoid use of word "accept", and to keep the words "High Contracting Parties". But the Department will not absolutely refuse to accept the formula accepted by the Allies, and the negotiations should not be broken off over the phrasing of the formula.

4. The Department does not clearly understand the proposal regarding claims. If it is proposed to exclude only those claims which arise from injury under foreign occupation, the Department would not be unwilling to accept the proposal, provided it is satisfactory in other respects, and would be willing to accept provision releasing the Turkish Government from responsibility for injuries occurring under foreign occupation. If, however, the injuries result from acts or negligence of the Turkish authorities, even though it can be shown that there existed some relation between the conduct of the Turkish authorities and the fact of foreign occupation, the Department would not in that case be willing to release the Turkish Government from responsibility. The assets to which Turkey has given up its rights, in return for discharge of claims against Turkey by the Allied Powers, far exceed in value the sum of the claims which the United States is disposed to press against Turkey. A sum of between $12,000,000 and $15,000,000 would cover the claims filed with the Department. In view of the fact that the Turks have already renounced their rights in favor of the Allies to nearly $60,000,000, in settlement of claims against Turkey, they might be prepared to turn over to the United States a lump sum in settlement of all American claims arising before the agreement shall have come into force; the task of satisfying individual claimants would be left to the Government of the United States. For a lump sum of $5,000,000, received in payments over a term of years, the Department would agree to discharge Turkey from all liability. This suggestion should be advanced only if you think you can settle on these terms.

5. If you cannot do better, you may accept from the Turks a judicial declaration in exactly the same form as the one presented to the Allies.

6. It should not be necessary to break off negotiations for a general treaty because of failure to persuade Turks to address a letter

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[96] Not printed.

[97] The following is a translation of article 26 of the Turkish counterproposal, as transmitted in a despatch from the Special Mission at Lausanne, dated at Paris, Mar. 20, 1923:

"The High Contracting Parties declare completely abrogated the capitulations concerning the regime of foreigners in Turkey both as regards conditions of entry and residence and as regards fiscal and judicial questions, and likewise the economic and financial system resulting from the capitulations."

to us on minorities. It is difficult to see, however, why the Turks are reluctant to adopt suggestion in Department's 247 of July 20. Perhaps they would be willing to let you see the full text of the National Pact and to point out the particular article which relates to minorities.

7. With regard to institutions, the Department is disposed to accept a letter identical with the one addressed to the Allies.

8. The Department does not regard the declaration on sanitation as of paramount importance to the United States. Our own quarantine regulations and the exercise of a proper vigilance by American consuls in issuing bills of health should sufficiently protect the interests of this country. Apparently the Department has made no earlier communications to you on this subject, but it assumes that the declaration given in the Turkish counterproposal on article 129 is the one to which you refer. In case the Public Health Service has expressed, through General Blue, the importance of receiving a declaration on sanitation, you should make every proper endeavor to secure it.

9. The Department has no observations to make on the question of the Straits.

10. It is not clear to which aspect of the tax question you have reference.

The Department assumes after reading your telegram that it is not the wish of the Turks to omit from all articles of the treaty any application of the principle of most-favored-nation treatment. It would be necessary, for instance, in article 9 [98] to receive assurance of most-favored-nation treatment in regard to import duties.

HUGHES

711.672/127 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Extract]

LAUSANNE, *July 22, 1923—midnight.*

[Received July 23—9 : 40 a.m.]

551. [Paraphrase.] We reported in our 550, July 22, that it was agreed with Ismet that today the American and Turkish experts should discuss a text for the article on claims. This afternoon the Turkish experts again stated that although on minorities, capitulations, the judicial declaration, and naturalization Ismet had given his final word, on claims and establishment articles they had authority to refer to Angora for final decision on provisional texts. The text of the article on claims as reported below was prepared by our experts and the Turkish experts offered no comment with regard to it. . . .

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[98] See draft for long form of treaty, p. 1080.

It came out very clearly in the final discussion between the experts today that in substance and form the Turks are prepared to grant to us all that they have granted to the Allies. It is evident from remarks which Ismet made yesterday that they will not grant any more. On the basis of the two foregoing sentences the Department can form an accurate idea of the character of a treaty which can be obtained at the present time. I rather think that Ismet will recommend that his Government accept the establishment article in its present form, but I am of the opinion that some further and important reservations with respect to claims may be expected. . . . [End paraphrase.]

Claims article. All claims of American citizens, companies, or associations arising from injuries, losses, or damages of any kind attributable to the Turkish Government shall, within six months from the coming into force of the present treaty, be registered with the competent Turkish authorities at Constantinople upon the application of the interested parties or of the Government of the United States, together with all available evidence concerning the nature, origin, and justification for the said claims.

Within a year from the coming into force of this treaty the claims registered as aforesaid shall be examined by two delegates, one chosen by the Government of the United States and the other by the Turkish Government, who shall meet at Constantinople and endeavor to arrive at an amicable arrangement, subject to the approval of the two Governments, for the final disposition of such claims as shall appear to the American delegate to deserve the support of his Government. Such claims, in default of any other arrangement and subject to the reserve indicated in the last paragraph of this article [shall] be submitted for final decision to a commission to be constituted within 15 months from the coming into force of this treaty in accordance with the provisions of part 4, chapter 4, of the convention of October 18, 1907,[99] for the pacific settlement of international disputes. The decisions of the commission if any shall be in accordance with the principles of justice, the law of nations, and the stipulation of treaties in force at the time of injuries, losses, or damages in question were sustained.

It is understood that the claims of American citizens, companies, or associations to which the present article applies fall within the following categories: (here we insert categories in Department's 239, July 14, 2 p.m.).

It is further understood that the commission provided for in this article shall not be competent to decide upon claims arising from

[99] Malloy, *Treaties*, 1776–1909, vol. II, p. 2220.

injuries, losses, or damages necessarily incident to operations of war or due to the acts or negligence of authorities of foreign governments occupying portions of Turkey.

Repeated to Constantinople.

GREW

711.672/128 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 24, 1923—2 p.m.*

261. Replying to Mission's 552 of July 23.[1] It seems desirable to sign texts in English, French, and Turkish; the French to control. This was the procedure suggested in your 524,[1] and at the time it was apparently acceptable to the Turks. In order to avoid delay in signing the French text the other two could be signed later on. Without the formality of meeting again, the same plenipotentiaries could sign the English and Turkish texts as of same place and date as French original. The Department will not insist on this course, however, if it would imperil immediate signature, and is ready to have you sign the French text, provided you can get a written agreement, preferably embodied in the treaty, that before a specified date, not more than 90 days distant, the representatives of the two Governments will exchange initialed and certified translations in English and Turkish. The Department would prefer to insert this agreement in the body of the treaty, but consents to arrange for it by an exchange of notes.

In order to be prepared to submit the treaty to the Senate it is necessary that we have an authoritative English text, or at least a translation.

HUGHES

711.672/131 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *July 24, 1923—3 p.m.*

[Received 11:33 p.m.]

189. I received a call yesterday from Adnan Bey, who told me that information had just come to him in a long telegram from Raouf Bey that difficulties have arisen in our negotiations at Lausanne.

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[1] Not printed.

Adnan said that the negotiations might have to be suspended and resumed later at Constantinople unless the treaty could be signed before August 2, as Ismet Pasha had received positive instructions to leave for Angora on that date. He said that the sincere hope of Raouf Bey is to bring about amicable relations between the two countries, and that the Turkish Government had looked upon the United States as an honest friend which expected no more than the European powers had received in the peace treaty, and out of good will would ask even less. He said, however, that the Turks had been somewhat disillusioned by the events at Lausanne, as it appeared that we were not satisfied with what the Allies had received. Adnan told me that he had been directed by Raouf Bey to discuss with me the attitude of the American delegation, and that he hoped their attitude might be modified if I would undertake to telegraph to Washington an explanation of the situation. In reply I told him that it must be obvious to him that I was unacquainted with the course of affairs at Lausanne, and that until I had made a leisurely examination of all aspects of the situation it would not be possible for me to express an opinion. But I said that it was my conviction that the American representatives at Lausanne were only seeking to conclude a treaty founded upon justice and right, and that I hoped he would accept these assurances from me. Adnan replied that while Turkey was perfectly willing to grant to the United States by treaty exactly what she had granted to the European powers, it would be quite out of the question for her to grant more. He read over to me at my request the portions of Raouf's telegram which related to the points in dispute at Lausanne. These were about the same as the points mentioned in Mission's 550 to the Department. I said to Adnan that these were not so much matters of principle as of detail, and could therefore be adjusted. But he replied at once that, on the contrary, they were matters of principle upon which Turkey could not yield, and that our attitude had very much surprised Raouf Bey. I said again that I had no doubt an adjustment was possible, but that obviously it would require more than a few days to arrange it, and I inquired whether, in case Ismet should return to Angora, some of the Turkish delegation could not remain at Lausanne to bring the negotiations to a conclusion. Adnan said it would be impossible to accept that arrangement, and that the negotiations could be resumed only at Constantinople if at all; a very unfavorable impression would be made at Angora, however, by a postponement of the negotiations. Thereupon I requested that he call to the attention of Raouf Bey the fact, of which he was doubtless already aware, that American sentiment had been hostile to Turkey, and that our

delegation at Lausanne was obliged to take the feeling of the country into consideration in framing a treaty to be submitted to the Government of the United States. I reminded him further that under the American constitution a treaty must receive the sanction of the Senate; and it would be very unfortunate if the treaty as negotiated at Lausanne should prove unacceptable to the Senate and so fail of ratification. In reply Adnan said that likewise the Turkish Government must approve the treaty, and he was convinced it would not approve a treaty which granted to the United States more than had been accorded to the Allies. I pointed out to him that to halt the negotiations now would only result in augmenting the hostile feeling in America, and that failure to conclude a treaty would postpone the restoration of normal relations between the two countries.

BRISTOL

711.672/130 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 25, 1923—3 a.m.*

[Received 8 : 50 a.m.]

554. I gained hardly anything from Ismet tonight in a dispute lasting nearly four hours. In the end all he would say was that he wants to sign a treaty with us, and will remain here long enough to bring our affairs to a conclusion. To this I replied that I was pleased to take note of his statement and would refer it to the Department. We discussed again and at length all the unsettled questions, and each brought forward the arguments which have been repeatedly advanced. My feeling is that the negotiations will now develop into a test of tenacity, and will hinge upon the claims question.

GREW

711.672/132 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 25, 1923—noon.*

[Received 1 : 14 p.m.]

555. Referring to Mission's 554. Ismet suggested during conversation last night that we might sign a general treaty and an extradition treaty, supplementing them by an exchange of letters in which the question of claims could be treated separately. It had been

already suggested to us informally by one of the Turkish experts that the most promising course would be to sign the treaties, upon an understanding that they will be presented to our respective Governments for ratification only if accompanied by a claims convention to be negotiated within the next few weeks. This would give undesirable emphasis to the economic aspect of our negotiations; but if the understanding on the claims convention can be made binding, and if it is perfectly clear that the treaties actually signed are accepted conditionally, our legal position should remain unimpaired. It is possible that eventually we may have presented to us the alternative of consenting to an arrangement of this sort or abandoning our present tentative agreements. In case the Department might be ultimately disposed to assent to some such proposal there are two possible ways to give it effect:

(1) By an article in the treaty declaring that the question of claims is reserved for a subsequent convention which will accompany the general treaty when submitted for ratification.

(2) By omitting the claims article from the treaty but supplementing it by an exchange of notes expressly setting forth the understanding that an agreement on claims must be reached before the treaty will be submitted for ratification.

We request instructions.

GREW

711.672/133 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *July 25, 1923—2 p.m.*

[Received July 25—1 : 23 p.m.]

556. Following is translation of statement which appeared in the Swiss press today obviously given out by the Turkish delegation.

"The United States of North America have not signed the treaty of peace, having entered into separate negotiations with the Turks with a view to concluding a Turco-American treaty of peace.

Certain difficulties have arisen, principally concerning the rights of American citizens in Turkey. The United States put forth requirements which according to the Turks recall too well the capitulatory regime; Mr. Grew the American representative has requested new instructions from his Government. The Turks have as a result postponed their departure from Lausanne. In case the Americans should maintain their requirements the Turks have intimated a possible postponement of the negotiations and their later resumption at Constantinople."

Repeated to Constantinople.

GREW

711.672/129 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 25, 1923—3 p.m.*

263. . . . It is important to take precautions against the possible interpretation that no American of any State could hold real property in Turkey if any American State or States deny rights in real property to all foreigners or to Turks. It should be made perfectly clear that the right of Americans to hold real property in Turkey must be determined by reference to the laws of the particular state from which they come, and that reciprocity refers to the laws of the respective states. The treaty with France of 1853 furnishes a precedent. In order that there may be no misunderstanding, this interpretation should be clearly indicated either in an exchange of notes or by a formal statement in the *procès-verbal.*

HUGHES

711.672/135 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *July 25, 1923—3 p.m.*

[Received 3:27 p.m.]

192. I have the honor to submit the following comments on last part of 550 of July 22 from the Mission at Lausanne to the Department:

It seems quite impossible for me to make recommendations upon the questions in dispute at Lausanne since I am not fully acquainted with the course of our negotiations and am not informed of conversations, official and unofficial, which may have taken place.

But it is my very earnest hope that the negotiations will not be broken off. If that is unavoidable they should be merely suspended, and we should exchange declarations with the Turks to the effect that we have postponed negotiations until after the Grand National Assembly shall have ratified the treaty with the Allied Powers, whereupon we shall promptly resume negotiations at some place to be agreed upon between the two Governments. If the negotiations are thus adjourned I see no reason to fear either that our interests in Turkey will be impaired or that Turkey will ask us to withdraw the High Commission. It is my belief that Ismet Pasha has the full support of his Government in refusing to yield anything on the points in dispute, if I have rightly understood those points. But

I also believe that we can arrive in time at satisfactory settlements if we will refrain from bringing sharply to an issue the matters in controversy.

BRISTOL

711.672/132 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 25, 1923—5 p.m.*

264. Referring to Mission's 555 of July 25.

1. The Department will rely largely upon your recommendations for meeting the difficulties which have arisen in your effort to complete the negotiations. If Ismet declines to settle claims as already proposed, either by submitting them to a tribunal or by agreeing upon a lump sum, and if in your opinion he has no intention of receding from his position and the negotiations are in danger of breaking down, you may as a last resort adopt the course you have suggested. You should follow the second alternative procedure, namely, an exchange of notes, rather than the first, for the purpose of obtaining promptly an agreement on claims as set forth in the present communication.

2. In the opinion of the Department nothing would be gained by formally binding the Turkish Government to suspend ratification of the treaty until a claims convention had been negotiated, as a prompt ratification by Turkey is desired by the Department. We should by all means have it clearly understood, however, that unless a claims settlement is made now we will reserve the right to withhold our own ratification pending the negotiation of a separate claims convention. Accordingly we might have an exchange of notes, by which from our side there would be a statement that it is understood that a claims convention will be negotiated without delay and that meanwhile this Government is not committed with regard to submitting the treaties to the consideration of the Senate. From the side of the Turks should come a reply confirming this understanding.

3. You should of course leave nothing undone to obtain at Lausanne a prompt settlement of the question of claims. Since you are on the ground you should have a more intimate knowledge of the situation than the Department, but it seems hardly credible that the Turks would risk a rupture of the negotiations by declining to settle the question of our claims according to principles which they have already recognized in dealing with the Allies, and which are generally recognized in such settlements between civilized countries.

HUGHES

711.672/137 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 25, 1923—5 p.m.*
[Received July 26—2 a.m.]

557. It seems desirable to lay the issues plainly before the Department and to attempt an analysis of them lest some unforeseen turn in the negotiations should find us unprepared. Some elements of the situation which should be kept in mind are as follows:

(1) Ismet's determination to yield no further, as evidenced in statements reported to Department.

(2) Yesterday's communiqué from the Turkish delegation to the press.

(3) Information from Adnan Bey to High Commissioner at Constantinople that positive instructions had been sent to Ismet to return to Angora by 2d of next month.

(4) Intimations given out openly by the Turkish delegation that it plans to quit Lausanne toward the end of the week and that the negotiations will be taken up again at Constantinople if necessary. It is possible that Ismet hopes by these expedients to rush us into a precipitate surrender. But it is also possible that he is acting under instructions from his Government requiring him to wind up the negotiations at once, or failing that to suspend negotiations and return to Angora forthwith for the opening of the National Assembly on the 2d of next month.

If Ismet's attitude is a stratagem, we should simply hold patiently to our position. But if, on the other hand, he is following instructions, we must soon make up our minds whether for the sake of an immediate settlement we would be justified in yielding our position on almost all questions still pending. We should not take too seriously the assurances which Ismet gave last night that he will stay in Lausanne until we have completed our negotiations. He may wish to give those assurances a special interpretation, and it is quite conceivable that he will suddenly present us with an ultimatum carrying a time limit of only a few hours. It would be undesirable to risk compromising the dignity of the United States by making concessions at the last minute and after Ismet has announced that he is about to quit Lausanne. In that contingency I recommend that we should be the first to leave Lausanne and should make public the reasons for going away.

Last night Ismet informed me that he was expecting to receive instructions from his Government today and that he hoped then to be able to deal with the establishment articles in a way entirely in accord with our views. At half-past six this evening there is to be a meeting of the experts. As regards naturalization and the judicial declara-

tion, we have agreed provisionally to give way, provided our views are met on all other unsettled questions. On the question of minorities we have adhered to our position that it is necessary to receive a letter of some sort. I suggested last night as a concession that, instead of employing the formula of the Allied treaty, Ismet should quote from the National Pact the passages relating to the question. The proposal was not rejected point blank. In regard to the capitulations we have agreed for the present to accept the formula as phrased in the counterproposal drafted on March 8 by the Turks.[2] But on the plea that Turkey requires uniform provisions regarding the capitulations, Ismet has persistently held out for precisely the same formula as in the treaty with the Allies. All the Turkish treaties contain a declaration that the high contracting powers accept, each insofar as it is concerned, and without reservation, the abolition of the capitulations. This is in substance the declaration which the Department authorized us to accept only as a last resort, and we shall make every effort to obtain some better formula. Except for this question and the question of claims we can get settlements on every point.

It is probably on the question of claims, therefore, that the success of the negotiations will turn, and if we adjourn it will be owing to disagreement on that question. Since it is an issue which involves the general principle of international obligations it should be a sound one by which to explain to the public the failure of our negotiations. But on this point we solicit an expression of the Department's views.

Last night, during conversation, I presented Ismet with a virtual ultimatum on the principle of a mixed court of arbitration for final appeal of claims, no matter what preliminary steps might be suggested or examined during the negotiations. I told him that the tentative formula presented to the Turkish experts on July 22 (see Mission's 551, July 22) represented the position of the American Government. He accepted this statement as our last word and said he would so report it to Angora. In case the reply of the Turkish Government is not favorable, we could then either consider the procedure suggested in Mission's 555, July 25, or propose that Turkey pay us a lump sum. But I question whether Ismet would entertain the latter proposal.

We should receive as soon as possible any further comments or instructions which the Department deems necessary. An important element in the situation is that, on account of the diplomatic successes of the Turks over the Allies, the Turkish delegation, and particularly their chief, manifest a certain perversity and unreasonableness. In their present frame of mind they are not to be moved by argument. I think I can claim, however, that from our side the

[2] See footnote 97, p. 1115.

arguments on every issue have been presented with force and clearness, although, because of expense, it has not been possible to report them exhaustively to the Department.

GREW

711.672/131 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *July 25, 1923—6 p.m.*

139. Grew has been directed to repeat to you Department's 255, July 22, and 257, July 23,[3] for your information and guidance.

The Turkish contention that the United States is asking for more than was conceded to the Allies is not easily understood by the Department. During the negotiations at Lausanne we have been guided by the principle of equality of treatment, and we are not in the least disposed to demand a privileged position or to ask for special rights. But the treaty of peace between Turkey and the Allies was negotiated under circumstances differing from those under which the United States is now trying to negotiate a treaty. The provisions and the intent of the two treaties are not the same. Moreover, there is a difference between the domestic legislation of the United States and that of European countries. It would not be fair, therefore, to regard minor changes in the wording of the draft as an attempt to obtain for ourselves more than was accorded the European powers.

The Department is in receipt of a telegram today from the Mission reporting that Ismet has stated that he will remain at Lausanne long enough to bring the negotiations to a conclusion. The Department believes that the negotiations are nearing completion. But you should not fail to remind Adnan Bey in your conversations that the original rupture of diplomatic relations cannot be attributed to the United States and that the present negotiations were not begun at the instance of the United States. This Government would receive a most unfortunate impression, therefore, if the negotiations should now be suspended through the withdrawal of the Turkish representatives, or if an attempt should be made by Turkey to lay down arbitrarily the conditions under which the negotiations are to be resumed if they should be interrupted. It would be regrettable also if the Turkish Government should be misled into thinking or should give currency to the view that the United States is more concerned than Turkey in obtaining a treaty. For it should be understood that

[3] Latter not printed.

this Government will be compelled to take the ground that the existing treaties remain effective until replaced by a new treaty.

It is impossible for the Department to escape the conclusion that the Turks are trying to invent difficulties, perhaps with the idea of afterwards pretending to have won a triumph in diplomacy. This impression is strengthened by the Turkish statement given to the press yesterday at Lausanne.[3a] The United States is prepared to consider all unsettled questions in a spirit of reasonableness and compromise. But it refuses to be rushed into a precipitate treaty which only the Turks will find satisfactory.

HUGHES

711.672/144a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 27, 1923—5 p.m.*

269. 1. The Department has considered again the Turkish proposal regarding claims as reported in Mission's 503 of July 6. It has had in mind the possibility of including in the treaty a variation of the proposed formula as an arrangement preferable to a postponement of the settlement of claims. (See Mission's 555 of July 25, and Department's 264 of July 25.)

2. It does not seem desirable that claims arising before 1917 should be distinguished from those arising after that date, since there has been no satisfactory settlement of many of the claims originating in the earlier period. Accordingly, all of paragraph A of Mission's 503 should be dropped, and Department would accept in the treaty a modification of paragraph B somewhat as follows: That claims against the United States or against Turkey shall be filed with the competent authorities of the respective Governments within a year from the time the treaty goes into force and upon application of the interested Governments, and that evidence shall be furnished of the nature, origin, and grounds of the claims. Two commissioners, one appointed by the United States Government and one by the

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[3a] The following is an extract from a news despatch appearing in the *New York Times*, July 25, 1923, p. 3, cols. 4 and 5:

"Ismet Pasha and Minister Grew tonight discussed the outstanding difficulties which have prevented the rapid conclusion of the Turko-American treaty negotiations.

"A Turkish spokesman said tonight he believed the negotiations would soon take a favorable turn. He added, however, that the *pourparlers* were rendered difficult by the fact that the Americans asked for more judicial safeguards than Turkey accorded to other foreigners in the treaty. This request, he observed, took the form of seeking an extension of the competence of the foreign legal advisers, temporarily substituted for the capitulations system. The Angora Assembly would never accept such a demand, he said, and Ismet Pasha would tell Mr. Grew so frankly."

Turkish Government, shall inquire into the claims within a year and a half from the time the treaty comes into force, with the object of arriving at a friendly settlement. If a settlement of individual claims cannot be reached, a convenient method of dealing with the residue of unsettled claims shall be agreed upon promptly between the two Governments.

3. The advantage which such a clause would have over the formula suggested in Mission's 555 would be that we would not thereby incur delay in obtaining ratification and that on the other hand Turkey would put itself under treaty obligation to concert with us some means of settling claims which we had been unable to settle by direct agreement.

4. Should the formula suggested in Mission's 551 of July 22 be rejected by the Turks, it is left to your discretion whether to propose a formula on the lines of the previous paragraph. You could then hold in reserve the procedure you have outlined in Mission's 555, resorting to it in case the negotiations are in danger of a rupture.

HUGHES

711.672/146 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 29, 1923—midnight.*

[Received July 30—9 : 50 a.m.]

569. Last night I received a call from Ismet Pasha accompanied by Riza Nour Bey. He regretted that since our last interview there had been a lapse of four days, and explained that the delay was owing to the present situation in Turkey, and that his Government had not yet sent him definite instructions in regard to the proposals I had made for claims settlements. (See Mission's 557, July 25.) He had corresponded with Angora, however, on the subject of our claims, and had received a request for more particular information. He said that his Government earnestly desired to reach an agreement, and had no thought of refusing to satisfy just claims. But for the past decade Turkish territory had suffered from wars, tumults, and devastations, and he said that the Turkish Government could not be held responsible for the losses which had ensued. With this consideration in mind he had himself drafted a formula, which was quite unofficial, however, and which implied no obligations since he had not yet asked for his Government's approval of it. He said it was an attempt to meet the requirements of our position. Appended to this telegram is the text of the informal note. Turlington has discussed it with Mustafa Cherif Bey and Munir Bey, and after considering their ex-

planations I went to see Ismet again today and advised him that there seemed to be no satisfactory basis for negotiation in his formula. On receiving my statement Ismet replied that it was quite impossible for him to consent to arbitrate claims the nature of which was unknown, and that at the bottom of the difficulty was his Government's unwillingness to take a leap in the dark. In his opinion it remained for us to choose between two courses: Either to put off signing the treaty until the Turkish Government had received, examined, and classified the claims; or else to sign at once and reserve the question of claims for an amicable solution after the two Governments had restored normal relations. Of these alternatives, he said, his Government would prefer the second. I replied that the only course open to me was to refer his proposal to the Department, although I feared that the Turkish attitude would create an unfavorable impression.

It did not seem wise to let Ismet know at once that the Department had authorized me to assent to postponement, since I have heretofore persistently held out for the arbitration of claims of all classes. But it is the unanimous opinion of the Mission that there is no longer any chance that the formula contained in Mission's 551, July 22, can be used as a basis of settlement. I cautiously put forward the idea of the payment of a lump sum, but I saw at once that Ismet would not for a moment consider it and that to propose terms on that basis would be futile.

My intention is, therefore, to propose next the formula indicated in Department's 269, July 27, as I have been authorized to do. Our unanimous opinion is that we cannot obtain better terms and that to prolong the discussions would be to imperil the signing of the treaty. Munir and Mustafa Cherif, in their conversations with our expert, have expressed views similar to Ismet's. We have had fresh intimations that Ismet has in view an early departure. We have heard that his Government has expressly summoned him to Angora. There is some confirmation of the rumor in the fact that at my last two conversations with Ismet he has been accompanied for the first time by Riza Nour Bey, the second Turkish delegate. This seems to signify that in case of Ismet's departure our negotiations may be conducted by Riza Nour. Ismet may make the plea of urgent political necessity to explain his return to Angora. I believe, however, that if there is any prospect of an early agreement he will remain here. It is conceivable that he is trying to stampede us into a hasty decision; nevertheless, it is our belief that in the matter of claims he does not intend and he will not be permitted to yield. During the conference he seldom if ever resorted to ruses to gain his ends, and we do not think that he is now attempting to practice any deception, or that we have anything to gain by insisting that all claims shall be arbitrated.

We do believe, on the contrary, that to persist in that contention will imperil the signature of our treaty in Lausanne. Accordingly, after the Department has considered a report which we are about to send on the draft of the whole treaty as it now stands, it may desire us to sign at once.

The following is Ismet's provisional formula on claims:[4]

"The claims of American nationals, companies, or associations shall within six months from the coming into force of the present treaty be presented for registration to the competent Turkish authorities in Constantinople. They shall be accompanied by all the evidence establishing their character, origin, or justification.

Those of the claims above referred to, the legitimacy of which may be contested by Turkey or which may be regarded by it as not involving its responsibility, as well as any divergence relative to the amounts to be paid, shall be settled by arbitration.

The provisions of the present protocol do not apply to claims arising from cases which are not dependent upon the volition or power of the Turkish Government, such as acts of war, revolt, and insurrection, or from military or administrative measures which such cases caused to be taken, or finally from the exercise by Turkey of its sovereign rights or duties in like manner as any independent state. Such claims may not be presented to the Turkish Government."

GREW

711.672/149 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *July 30, 1923—11 p.m.*

[Received July 31—10 : 10 a.m.]

573. I went to see Ismet late last night and suggested tentatively a claims formula which was substantially that communicated to me in Department's 269, July 27. I presented it as my own personal suggestion and without making any commitments. After examining it for nearly an hour, in consultation with Munir Bey, Ismet told me he would talk it over with me next day.

Today Ismet and Riza Nour called on me, and we discussed minorities and claims for three hours.

Ismet submitted a claims formula reproducing substantially the formula I had proposed the previous evening. But he did not adhere to the arrangement for preliminary discussion of claims by a commission, and he left to a later date the matter of an agreement on a method of settlement, and the matter of deciding on the classes of claims which Turkey can consider. Ismet stated that without fuller information on the nature of our claims he could not consent to a

[4] Formula not paraphrased.

resort to arbitration, unless he could first exclude certain general classes of claims some of which might later prove to merit examination. As it was plain that we could advance no farther, it was agreed between us that a final formula on the basis of our conversation should be drafted by the experts and submitted to our respective Governments, but that it implied no commitments until accepted by both Governments. It was drafted by Turlington and Munir Bey and is appended hereto in the form tentatively approved by Ismet. When accepting the draft, Munir Bey stated that the earlier Turkish proposal of a commission had been joined with other suggestions which had since been withdrawn, and that his Government could not consent to have the proposed commission inquire into all claims, since that procedure would progressively and inevitably lead to arbitration. He declared that Turkey is ready to agree now to begin a discussion of American claims with the best will and intention of devising some means of settlement, but does not wish to prejudice its position as regards liability.

It seems improbable that we can get better terms at present, and it rests with the Department whether we should accept and sign.

Ismet absolutely declines to touch the question of minorities, either by a letter or in any other manner. He declares that a letter would constitute a one-sided pledge, either express or implied, which he will never consent to give. He was quite unmoved by argument.

Ismet requested me to communicate fully to the Department some observations which he made just before the close of our interview. He said that no other nation had received from Turkey so many evidences of confidence as had the United States; that in the course of the recent conference in which Turkey was endeavoring to make peace with her late enemies, whenever conflicts had arisen even over the interests of individual companies, the interests of the United States had been defended unflinchingly by the Turkish representatives. Moreover, Turkey had granted to an American company a concession ten times as valuable as all other concessions taken together, and had not been deterred by the possibility that the European powers would make difficulties. Ismet argued that, in view of the risks taken, Turkey's conduct had been an evidence of the highest confidence in the United States and that Turkey had held resolutely to that policy.

Ismet made much of the fact that the United States had received most-favored-nation treatment, which had been denied to the Allied Powers, even after they had singly and jointly exerted persistent pressure upon Turkey.

Ismet also asserted that in consenting at all to deal in the treaty with the question of claims, Turkey had made a great concession;

and he expressed the hope that the United States would not abuse Turkey's confidence by pressing claims which are unfair.

He declared that if the United States would not accede there would be a revulsion of feeling in Turkey under impression that the Turkish Government had been too trusting. He expressed a hope that Turkish faith in our country would be strengthened by signature of the treaty; and he besought me to make every endeavor to avert a rupture over claims, as the Turkish Government had gone as far as it could.

In my own remarks, which it seems unnecessary to report to the Department, I dwelt elaborately upon our own efforts to meet the Turkish views during the negotiations and the sacrifices we had made to that end, and upon the unfortunate impression which would be made on American business and sentiment if our negotiations should now come to nothing. I made particular mention of the fact that the whole course of the negotiations must be fully explained to the public. I took occasion to restate the reservations we had made at each stage of the discussions, and I pointed out that the provisional concessions made at various times in order to satisfy Turkish views could not become effective until the United States Government had approved the complete and definitive text of the treaty.

Upon reflection, we believe that there are open to us two alternatives: Either to present an ultimatum, or to accept the Turkish formula on claims and sign the treaty. After reviewing what we observed of Turkish diplomacy during the conference and after considering the present inflexible temper in Turkey, it is our belief that an ultimatum would almost (although not quite) certainly end in adjournment. We do not venture to predict whether we could obtain better terms later. Below is appended the final text of the claims formula:[5]

"Within a period of one year from the date of the coming into force of the present treaty, the claims of American nationals, companies, or associations against Turkey and the claims of Turkish nationals, companies, or associations against the United States shall, upon the application of the interested Government, be registered with the competent authorities of the other Government. Evidence establishing the nature, origin, and justification of these claims shall likewise be presented.

After having taken cognizance of the claims which may be presented to them and at the latest within a period of six months from the presentation of all the said claims, the two contracting parties will proceed to negotiations with a view to determining the categories of such claims which may be followed up. The two contracting parties will thereafter come to an understanding concerning the methods of examination and adjustment of the claims falling within the said categories.["]

GREW

[5] Formula not paraphrased.

711.672/149 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *July 31, 1923—7 p.m.*

273. The idea of an ultimatum, suggested in Mission's 573 of July 30, is not favored by the Department. If our terms should be rejected, as seems probable, we should then have created a situation in which neither side could recede from its position without sacrifice of dignity. Moreover, should negotiations be broken off through presentation and rejection of an ultimatum, the spirit of our relations would be changed and an incitement would be furnished to Turkey to take measures injurious or at least vexatious to American interests, while we should have no present remedy. We might be put in a position of disadvantage as compared with the European powers, and in consequence might get into difficulties both foreign and domestic. The settlement of our claims will not be promoted by such a condition of affairs; on the contrary, it might be delayed, and without compensating advantages. If, however, we sign the treaty and keep up amicable relations with Turkey, we would be in a more favorable position to get our claims satisfied. Although the situation is not satisfactory, yet it is not the desire of the Department that by presenting an ultimatum you should break off negotiations.

The Department is at a loss to understand why the formula contained in its 269, July 27, has been rejected by the Turks. By that formula means are provided for working out solutions of questions relating to claims, and Turkish responsibility does not go beyond an obligation to give just and conscientious consideration to our claims. By the second paragraph of the Turkish formula, however (see Mission's 573), it could perhaps be argued that the Turks have no obligation further than to enter into negotiations with us for the purpose of classifying the claims, and that should these negotiations not come to an entirely satisfactory conclusion we could not ask anything more under the treaty.

The Department has taken note of Ismet Pasha's statement to you that Turkey is ready to agree now to begin a discussion of American claims with the best will and intention of devising some means of settlement, but does not wish to prejudice its position as regards liability. This intention might be more explicitly affirmed by modifications in the language of the proposed formula.

The Department desires you to propose that in the new formula the second paragraph shall provide that: After taking note of claims which may be brought in, and within a period of not more than six months after the claims are filed, the high contracting parties will

enter upon negotiations to determine without delay the classes of claims which may be entitled to further consideration. The high contracting parties agree thereafter to devise without delay a suitable procedure for the due examination and proper settlement of claims which have been selected as meriting further consideration.

If the Turks expect to deal sincerely with the claims question, they should have no objection whatever to the change proposed above, which is an express statement of obligation to examine and settle the claims. Special reference is made to claims which may be entitled to further consideration, in order to anticipate any attempt hereafter to reject arbitrarily some classes of claims.

The Department authorizes you to accept a clause as suggested above, or one in which at least the same ideas are embodied. We have now carried the negotiations so far toward a complete agreement that we would not be warranted in breaking them off or even adjourning them. The Department confides the matter to your discretion and authorizes you to accept as a last resort the formula suggested in Mission's 573 of July 30.

HUGHES

711.672/152 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *August 2, 1923—4 a.m.*

[Received 7:54 a.m.]

578. Referring to telegram 273 of August 1 [*July 31*] from the Department. The arrangement on claims appended below is the best we could get after prolonged dispute between the experts and between Ismet and myself. A new element was introduced by the Turks into the formula contained in Mission's 573 of July 30. Under alleged instructions from their Government the Turkish delegation proposed that the formula should contain a statement that it is understood by Turkey that the nationals, companies, and associations alluded to are those which enjoy incontestably either Turkish or American nationality. In the end they were persuaded to accept the modifications indicated in Department's 273. But they accepted it under the proviso that we reach an understanding on contested nationality, and they rejected the word "entitled". Finally, they proposed, as if making a great concession, that their reservation be embodied in the *procès-verbal* of a formal meeting, and the experts have tonight drafted a formula on this basis but without any engagements on either side, and it is being submitted by telegraph to the Turkish Government. It is evident that the Turkish Govern-

ment believes that something of the sort is necessary; to us it seems innocuous, though open to obvious objections. A statement by Ismet will read as follows:[6]

"From the point of view of the Turkish delegation this article implies no obligation on the part of the Turkish Government to receive for registration claims presented by the Government of the United States on behalf of persons who under Turkish law are deemed to be Turkish citizens."

My reply will read as follows:[7]

"I take note of Your Excellency's declaration and I have to say that this declaration does not prejudice the rights of American citizens under the laws of the United States."

Each of us will then observe that his Government adheres to its position.

There seems to be no prospect that by prolonging the negotiations we can get better terms in the matter of claims and we solicit the Department's instructions.

GREW

711.672/156 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *August 5, 1923—2 a.m.*
[Received 11:18 a.m.]

585. I was informed by Ismet this evening that the proposal on claims reported in Mission's 578 of August 2 is definitely rejected by his Government in a communication which he has just received. Ismet told me that he has been expressly instructed to propose, as the best to which the Turkish Government is willing to agree, an amended clause in which the last three sentences shall be the same as last three of clause as given in Mission's 573, July 30, and as modified in Mission's 578, but in which the first sentence shall be made to read thus:[8]

"Within one year from the coming into force of the present treaty, claims against Turkey arising from material damages to nationals, companies, or associations essentially American having resided in Turkey up to 1914, and similar claims against the United States of America of nationals, companies, or associations essentially Turkish having resided in the United States up to 1914 shall upon the application of the interested Government be regarded with the competent authorities of the other Government."

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[6] Statement not paraphrased.
[7] Reply not paraphrased.
[8] Quotation not paraphrased.

Ismet has proposed to me that in case we find the above formula objectionable, the negotiations be discontinued for three weeks and be taken up again here at Lausanne toward the end of the month. He could not promise, however, that on the resumption of negotiations he would himself be present at Lausanne.

It is the unanimous opinion of members of the Mission, after a careful examination of the Turkish proposal, that we cannot accept the new formula, and Ismet has been so informed. We considered it necessary, therefore, having particular regard to the views communicated in Department's 228 of July 10, to resort to the course which the Department has authorized in its 264 of July 25. Ismet has [consented] to this procedure, and accordingly we have agreed that on Monday afternoon the extradition treaty and the general treaty (omitting the article on claims) will be signed. I have made reservation that in case the Department so instructs me I may withdraw my consent. It will be appreciated by the Department, however, that it would be very awkward to refuse to go forward as agreed, and that refusal would result in adjournment.

My note to Ismet will read as follows:[9]

"I have the honor to call Your Excellency's attention to the statements I have previously made concerning the importance which my Government attached to the conclusion in connection with the negotiations of the treaties signed today of an agreement concerning the settlement of claims of American citizens, companies, and associations against the Turkish Government. In proceeding to the signature of the treaties above mentioned, I have to state under direction of my Government that it is understood that the subject of claims is reserved for further discussion and that pending the conclusion of an agreement on this subject my Government reserves entire liberty of action as regards the question of submitting the treaties to the Senate of the United States for its advice and consent to the ratification hereof".

His reply is as follows:

"I have had the honor to receive the letter which Your Excellency was good enough to address to me under today's date in regard to the question of claims.

The Turkish delegation has already several times had occasion to state fully the point of view of its Government in regard to the reciprocal claims of the nationals of the two countries.

As it has not been possible notwithstanding the efforts made on either part to reach a solution on this question during the negotiations of the treaties signed today at Lausanne, I agree with Your Excellency to restrict [*reserve?*] its discussion for a later date. I wish to specify on this occasion that the Government of the Grand National Assembly of Turkey reserves likewise its entire liberty of action as regards the question of submitting the above treaties, with a view

[9] Remainder of telegram not paraphrased.

to ratification, to the Grand National Assembly before the consummation of an agreement concerning claims."

The Turkish delegation has already furnished me copies of the declarations relative to the administration of justice and sanitary administration.[10] These are all in a covering letter to be signed by Ismet in which he states that they are furnished for my information.[11]

Likewise I have received a copy of the letter concerning schools and institutions.[12] The covering letter contains the following: "Similar American institutions will enjoy under like conditions the same treatment, etc."[13] The further assurance referred to in paragraph 5 of Department's 165, June 3, 3 p.m. will be included in the *procès-verbal.*

The *procès-verbal* contains also: (1) in respect to articles 3 and 4, the desired explanation regarding the phrase "on condition of reciprocity", and a statement that the right of each party to regulate immigration as it desires is not prejudiced; (2) a statement that the Straits article does not imply any obligation on our part to adhere to the Straits convention and that the rules established thereunder apply to our ships only so far as they may be in force at a given moment; (3) a reservation by us in respect to Turkish coastwise trade; (4) a recognition that negotiations for a naturalization convention are merely postponed; (5) in respect to article 29 the statement is made that the word "national" includes also companies and corporations.

The impression of our delegation is that schools, companies, associations, individuals, will receive by the treaty and letters annexed all the guarantees obtainable under present circumstances.

GREW

711.672/156 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *August 5, 1923—7 p.m.*

279. Mission's 585 of August 5.

1. Naturally the Department regrets that claims agreement cannot be reached at once. The Department would be prepared to accept the formula which Ismet provisionally proposed, as transmitted in your telegram 573 of July 30, should you think it possible to obtain an immediate settlement in that way. If you think best you may inform Ismet of our willingness to accept his proposal rather than postpone

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[10] *Post,* pp. 1139 and 1141.
[11] See letter of Aug. 4, p. 1139.
[12] *Post,* p. 1142.
[13] See letter of Aug. 4, p. 1141.

treaty settlement of the claims question and put the issue squarely up to him.

2. Should it not be practicable to obtain a settlement along the lines referred to above, the course you propose is approved and you are authorized to carry out the proposed exchange of letters described in your telegram 585. The Department's attitude on claims is in no way affected by this exchange of letters and the signing of the general treaty and extradition treaty. Also the position of the United States regarding capitulations and the treaty of 1830 will not be prejudiced, pending ratification of a new treaty.

3. The Department believes it desirable to secure an agreement with the Turks fixing a time limit for prompt consideration of the question of claims. As Ismet himself suggested an adjournment on the larger question of the treaty for 20 days, it might be well to decide at once that claims negotiations will be resumed at the expiration of 20 days. You might, therefore, in your letter to Ismet after the words "further discussion" insert "to be resumed between the two Governments within 20 days". In his reply Ismet should indicate that this period is accepted. You may use your discretion, however, as to making this change.

4. While it is too early to indicate the procedure it may be desirable to adopt in the future, the Department now has under consideration the desirability of having the further examination of the claims question carried on in Turkey. Probably the Department will wish to have Turlington go to Constantinople. The advisability of having Bristol make a trip to Angora soon is also being considered by the Department. It may be that an effective and satisfactory plan for the settlement of claims can be found in this way.

5. Of course the Department does not wish to delay ratification of the treaties by Turkey. If the treaties are promptly ratified by Turkey and if the question of claims is settled, the Department will give favorable consideration to the early resumption of diplomatic relations. Irrespective of the claims settlement it would involve considerable delay to wait for ratification by the United States.

HUGHES

711.672/158 : Telegram

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *August 6, 1923—5 p.m.*

[Received 10:55 p.m.]

588. Department's 279, August 5, 7 p.m. Treaties in French signed this afternoon at 4:30 with agreement for subsequent signature of

English and Turkish texts as of same place and date.[14] Letters on schools and declarations concerning judicial and sanitary matters were formally communicated to us.[15] My letter on claims and Ismet's reply as given in my 585 August 5, 2 a.m. were amended by insertion of words "as soon as possible after 20 days" after word "discussion." Brief résumé given press. Treaty texts not published but Turks agree there is no objection to publication of them. Texts will be forwarded to the Department tomorrow;[16] we shall not give them out here unless so instructed.

GREW

711.672/170

The Turkish Plenipotentiary (Ismet) to the American Plenipotentiary (Grew)[17]

[Translation]

LAUSANNE, *August 4, 1923.*

MR. MINISTER: In response to the desire expressed by Your Excellency, I have the honor to transmit to you herewith, for your information, copies of the two Declarations relative to the judicial administration and to the employment in the service of the Turkish sanitary administration of several European specialists. These declarations have each a duration of five years.

Accept [etc.] M. ISMET

[Enclosure 1—Translation]

Declaration Relating to the Administration of Justice Made by the Turkish Delegation, Lausanne, July 24, 1923

The Turkish Delegation has already had occasion to state that the Government of the Grand National Assembly of Turkey is in a position to ensure to foreigners before the Turkish Courts all the safeguards of a good judicial system and to provide therefor in the exercise of its full sovereignty and without any kind of foreign interference. It is nevertheless prepared to have an investigation made and to cause the situation to be studied with a view to the institution of such reforms as may be rendered advisable by the development of manners and civilisation.

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[14] The English texts are printed on pp. 1153 and 1167.
[15] *Infra.*
[16] Despatch of Aug. 7 not printed.
[17] Transmitted with despatch no. 56–A, Aug. 7, from the Special Mission at Lausanne.

Animated by this spirit, the Undersigned, acting in virtue of their full powers, desire to make the following Declaration:—

1. The Turkish Government proposes to take immediately into its service, for such period as it may consider necessary, not being less than five years, a number of European legal counsellors whom it will select from a list prepared by the Permanent Court of International Justice of The Hague from among jurists nationals of countries which did not take part in the war of 1914–1918, and who will be engaged as Turkish officials.

2. These legal counsellors will serve under the Minister of Justice; some will be posted in the city of Constantinople and others in the city of Smyrna. They will take part in the work of the legislative commissions. It will be their duty to observe, without interfering in the performance by the magistrates of their duties, the working of the Turkish civil, commercial and criminal courts, and to forward to the Minister of Justice such reports as they may consider necessary; they will be authorised to receive all complaints to which the administration of justice in civil, commercial or criminal matters, the execution of sentences, or the manner of application of the law may give rise, with a view to bringing such complaints to the notice of the Minister of Justice in order to ensure the strict observance of the provisions of Turkish law.

Similarly, they will be authorised to receive such complaints as may be caused by domiciliary visits, perquisitions or arrests; moreover, these measures shall, in the judicial districts of Constantinople and of Smyrna, be brought, immediately after their execution, to the notice of the legal counsellor by the local representative of the Minister of Justice; this official shall in such cases be authorised to correspond direct with the legal counsellor.

3. In cases of minor offences release on bail shall always be ordered, unless this entails danger to public safety or unless such provisional release is calculated to impede the prosecution of the case.

4. In civil or commercial matters all references to arbitration and clauses in agreements providing therefor are allowed, and the arbitral decisions rendered in pursuance thereof shall be executed on being signed by the President of the Court of First Instance, who shall not refuse his signature unless the decision should be contrary to public order.

5. The present Declaration shall remain in force for a period of five years.

Done at Lausanne, the 24th July, 1923.

[SEAL] ISMET
[SEAL] DR. RIZA NOUR
[SEAL] HASSAN

[Enclosure 2—Translation]

Declaration Relating to Sanitary Affairs Made by the Turkish Delegation, Lausanne, July 24, 1923

The undersigned, acting in virtue of their full powers, declare that the Turkish Government will appoint for a period of five years three European medical specialists as Counsellors of the Sanitary Administration of the Frontiers. These medical specialists shall be Turkish officials and shall be attached to the Ministry of Health. They shall be chosen by the said Government from a list of six names, prepared in agreement by the Health Committee of the League of Nations and by the International Bureau of Public Health. Their salary, as well as the other terms of their appointment, shall be settled by agreement between the said Government and the two above-mentioned international organisations.

The Turkish Sanitary Administration shall establish, with the cooperation of the three above-mentioned European Counsellors, regulations determining the organisation of the sanitary administration of the coasts and frontiers of Turkey. These regulations shall be in accordance with the terms of the International Sanitary Conventions, and, insofar as the Straits are concerned, with the terms of the Straits Convention signed this day.

The yield of the sanitary taxes collected by the Turkish Administration shall be exclusively applied to the needs of the sanitary administration of Turkey, and shall appear in a special budget, which shall be prepared for this purpose by the Ministry of Health.

Done at Lausanne, the 24th July, 1923.

[SEAL] ISMET
[SEAL] DR. RIZA NOUR
[SEAL] HASSAN

711.672/170

The Turkish Plenipotentiary (Ismet) to the American Plenipotentiary (Grew) [18]

[Translation]

LAUSANNE, *August 4, 1923.*

MR. MINISTER: I have the honor to inform Your Excellency that as a result of the discussions of the Convention of "establishment" signed at Lausanne on July 24, 1923,[19] it had been planned at one time to annex to the aforesaid Convention, in the form of a declara-

[18] Transmitted with despatch no. 56–A, Aug. 7, from the Special Mission at Lausanne.

[19] Great Britain, Cmd. 1929, Treaty Series No. 16 (1923), p. 139.

tion, certain provisions concerning the religious and philanthropic institutions of the nationality of the three inviting Powers.

However, it was finally decided that this declaration should be replaced by letters from the Turkish Delegation addressed to the three inviting Powers.

In transmitting to Your Excellency identic copies of these letters, I have the honor to inform you that during the duration of the Convention of "establishment" in question, similar institutions of the nationality of the United States of America shall enjoy in Turkey, under the same conditions, the same treatment as that applied to the institutions of the Powers referred to above.

Accept [etc.] ISMET

[Enclosure—Translation]

Identic Letter from the Chief of the Turkish Delegation at the Lausanne Conference (Ismet) to the Chiefs of the Allied Delegations (Rumbold, Pellé, Montagna)

LAUSANNE, *July 24, 1923.*

EXCELLENCY: With reference to the Convention regarding the conditions of residence and business signed at Lausanne today, and following on the decision taken by the First Committee at its meeting of the 19th May, 1923, regarding the substitution of the declaration, which was to have been annexed to the said Convention, by an exchange of letters, I have the honour to declare, in the name of my Government, that the latter will recognize the existence of (British, French, Italian) religious, scholastic and medical establishments, as well as of charitable institutions recognised as existing in Turkey before the 30th October, 1914, and that it will favourably examine the case of other similar (British, French, Italian) institutions actually existing in Turkey at the date of the Treaty of Peace signed today, with a view to regularise their position.

The establishments and institutions mentioned above will, as regards fiscal charges of every kind, be treated on a footing of equality with similar Turkish establishments and institutions, and will be subject to the administrative arrangements of a public character, as well as to the laws and regulations, governing the latter. It is, however, understood that the Turkish Government will take into account the conditions under which these establishments carry on their work, and, in so far as schools are concerned, the practical organisation of their teaching arrangements.

I avail [etc.] M. ISMET

711.672/171

The American Plenipotentiary (Grew) to the Turkish Plenipotentiary (Ismet)[20]

[Translation]

LAUSANNE, *August 6, 1923.*

EXCELLENCY: I have the honor to draw Your Excellency's attention to the declarations which I previously made on the subject of the importance which my Government attached to the conclusion, on the occasion of the negotiation of the Treaties signed today, of an agreement concerning the settlement of the claims of American nationals, companies, and associations against the Turkish Government.

In proceeding to the signature of the Treaties above mentioned, I must say, under instruction from my Government, that it is understood that the question of claims is reserved for subsequent discussion as soon as possible after a period of twenty days, and that in waiting for the conclusion of an agreement on this subject, my Government reserves to itself entire liberty of action concerning the question of submitting the Treaties to the Senate of the United States for its advice and its consent to their ratification.

Accept [etc.] JOSEPH C. GREW

711.672/170

The Turkish Plenipotentiary (Ismet) to the American Plenipotentiary (Grew) [20]

[Translation]

LAUSANNE, *August 6, 1923.*

EXCELLENCY: I have had the honor of receiving the letter which Your Excellency was so kind as to address to me under even date relative to the question of claims.

The Turkish Delegation has several times had occasion to make plain the point of view of its Government on the subject of the reciprocal claims of the nationals of the two countries.

This question having been found incapable of solution, in spite of the efforts exerted on both sides during the course of the negotiations of the treaty signed today at Lausanne, I agree with Your Excellency to reserve all discussion for a subsequent date, as soon as possible after 20 days. I desire to take this opportunity to point out that the Government of the Great National Assembly of Turkey

[20] Transmitted with despatch no. 57–A, Aug. 7, from the Special Mission at Lausanne.

similarly reserves its entire liberty of action with regard to the question of submitting the treaties above mentioned to the Great National Assembly for ratification before the completion of an agreement on the subject of claims.

Accept [etc.] M. Ismet

711.672/170

Minutes of the Meeting Held at Lausanne, August 6, 1923 [22]

[Translation]

The American and Turkish Plenipotentiaries met on August 6, 1923, at the Hotel Beau Rivage, at four o'clock in the afternoon.

There were present:

Mr. Grew, Mr. Dolbeare, Mr. Shaw, Mr. Belin, Mr. Turlington, Mr. Barnes, (United States of America);
Ismet Pasha, Riza Nur Bey, Hassan Bey, Mustafa Sheref Bey, Munir Bey, Tewfik Kiamil Bey, Hussein Bey (Turkey).

Ismet Pasha in opening the discussion desired to indicate that by Article 2 of the Treaty which was to be signed today between the United States of America and Turkey, which provided for the abrogation of the capitulations, the Turkish government meant the complete abolition of all the capitulations, both those written into the old treaties and those resulting from custom.

This abolition therefore included every sort of capitulation no matter what might be its nature or origin.

Ismet Pasha asked Mr. Grew if he concurred in this interpretation by the Turkish government of Article 2.

Mr. Grew replied that he concurred on this point.

With reference to Article 3, Mr. Grew desired to indicate that his Government considered that the provisions of this article were without prejudice to the rights of either of the High Contracting Parties to regulate immigration into its territory as it might choose. In order to define the particular form of application of the term "under condition of reciprocity" contained in paragraph 4 of Article 3 and paragraph 2 of Article 4 of the general Treaty, relative to the acquisition, possession and disposition of immovable property by the respective nationals and companies of the two countries, as well as the right of the aforementioned companies to engage in various sorts of commerce and industry, Mr. Grew made the following statement:

"The denial or the restriction to which foreign nationals or companies may be subject in one section of the territory of the United

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[22] Transmitted with despatch no. 56–A, Aug. 7, from the Special Mission at Lausanne.

States of America, so far as the enjoyment is concerned of rights mentioned in paragraph 4 of Article 3 and in paragraph 2 of Article 4, may not, in an attempt to apply the same treatment, be invoked by Turkey except with regard to citizens or companies of that section."

Mr. Grew asked Ismet Pasha if he concurred in the view expressed in the declaration which he had just made.

Ismet Pasha replied that he concurred in this view.

Concerning the provision included at the end of paragraph 4 of Article 3, which permits nationals of the two countries to employ agents of their own choosing, Ismet Pasha made the observation that this provision could not be invoked by American nationals in Turkey in order to employ in their service workmen of a foreign nationality, the question of the employment of foreign workmen being reserved to the domain of Turkish internal legislation and administration. Similarly, the aforementioned provision could not be invoked in order to open to foreign nationals the practice of professions which, under the law, were forbidden to all foreigners in Turkey.

Mr. Grew replied that he accepted this interpretation.

So far as the freedom of access to the tribunals mentioned in paragraph 5 of Article 3 of the general Treaty was concerned, Ismet Pasha wished to make it clear that this right would be exercised under reserve of the provisions relative to the Caution Judicatum Solvi and to free legal assistance, which would be governed by local legislation.

Mr. Grew replied that he accepted this point of view.

With reference to Article 9, Mr. Grew made it a matter of record that the American experts had proposed to insert in this article the most favored nation clause so far as coastwise traffic was concerned. This clause was omitted at the request of the Turkish experts who declared that in virtue of the commercial Convention signed on July 24, 1923, at Lausanne between Turkey and the Allied Powers,[23] coastwise traffic and port services were in Turkey exclusively reserved to the national flag and that the Turkish Government had no intention of modifying this state of affairs. The Turkish experts had added that although certain of the foreign companies in Turkey were authorized to continue their operations for a fixed period, this period was strictly limited to the time necessary for these companies to liquidate their business.

Mr. Grew observed that in the name of his Government he took note of the declaration made by the Turkish experts and that he reserved the point of view of his Government in case the state of affairs referred to in the above declarations should be modified.

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[23] Great Britain, Cmd. 1929, Treaty Series No. 16 (1923), p. 153.

With reference to Article 10 of the general Treaty, which specified most favored nation treatment for the ships and aircraft both of commerce and of war of the United States of America, on condition that they conform with the rules established in the Straits Convention signed at Lausanne July 24, 1923, between Turkey and the Allied Powers,[24] Ismet Pasha wished to remark that in case the aforementioned Convention should not be put into force, Turkey would not be bound with regard to the United States of America by the provisions of the aforementioned Convention. Ismet Pasha added that in this case the United States of America would enjoy only the treatment which Turkey should decide to accord the most favored nation. He therefore inquired whether Mr. Grew were in accord with him on this subject.

Mr. Grew replied that he accepted the view which the Chairman of the Turkish delegation had just expressed. He added that it went without saying that the ships and aircraft of the United States would not be obliged to conform to the rules established by the Straits Convention except when these rules were in force at any given moment and that the provisions of the article in question did not imply any obligation for the United States to adhere to the Straits Convention.

Ismet Pasha declared that he had not given up hoping that the Government of the United States would wish to adhere to the Straits Convention at the first opportune moment.

With reference to Article 23, which stated that Consular officers could in their respective districts, address themselves to National, State, Provincial and Municipal authorities, and since in Turkey, outside of State, Provincial and Municipal authorities there did not exist a category of authorities functioning as "National", and in view also of the fact that consular officers could not address themselves, in connection with their consular duties, to the authorities of the central government in the Capital, Ismet Pasha declared that he understood by this Article that Consular Officers could address themselves only to those civil functionaries in their districts, whether State, Provincial or Municipal, with whom the consular officers of other Powers were in official relationship. Mr. Grew declared that he concurred on this point.

Concerning Article 29, which specified that there would not be imposed upon American nationals or on their property for the fiscal year prior to 1922–23, any impost, tax or surtax to which in virtue of the status which they enjoyed on August 1, 1914, American na-

[24] Great Britain, Cmd. 1929, Treaty Series No. 16 (1923), p. 109.

tionals or their property would not be subject, Mr. Grew asked Ismet Pasha if the word "ressortissants" (nationals) which was used, included companies and associations as well as individuals.

Ismet Pasha replied that companies and associations were also included in the term "ressortissants" (nationals).

Mr. Grew wished to recall that in consenting to omit the article which appeared in the initial American draft relative to naturalization, the American Delegation had urged that careful note be taken of the hope entertained by the Government of the United States that negotiations for the conclusion of a separate Convention in this matter would be begun at an early date.

Ismet Pasha desired to state in reply that the Turkish Government had not changed its point of view with reference to regulations in force in Turkey relative to the conditions and consequences of the naturalization of Turkish nationals.

Under reserve of this observation, Ismet Pasha declared that he was ready to recommend to his Government the commencement of *pourparlers* based on the questions brought up by His Excellency, Mr. Grew.

Mr. Grew replied that he would have the pleasure of communicating to his Government the declaration of His Excellency, Ismet Pasha, and that he hoped that a basis would be found for an agreement between the two Governments in so far as this question was concerned.

Mr. Grew pointed out that the supplementary assurances given by the Turkish Delegation concerning the regime of religious, educational and hospital institutions in Turkey, which were included in the report dated May 18, 1923, of the Sub-Committee of the Conference at Lausanne entrusted with the study of this question,[25] should be applied to American institutions.

Ismet Pasha replied that it was understood that the assurances in question applied to American institutions.

Mr. Grew observed that the French text of the two treaties drawn up at Lausanne was to be signed today. The English and Turkish texts of these treaties would be signed by the same Plenipotentiaries subsequently and would bear the same date as the French text; they would be considered as having been signed at Lausanne.

Ismet Pasha approved this procedure.

After an exchange of remarks by the respective Plenipotentiaries the meeting was closed by Ismet Pasha at 4:30 in the afternoon.

JOSEPH C. GREW M. ISMET

[25] *Infra.*

767.68119/618

Report of the Subcommittee of the Lausanne Conference Charged with the Study of the Regime of Religious, Scholastic, and Charitable Institutions, May 18, 1923 [26]

[Extract—Translation [27]]

1. It is understood that the Turkish delegation considers the phrase "religious, scholastic and charitable establishments as well as institutions for relief" [28] as having the same meaning as the phrase employed by the Allies in the draft convention of January 31, 1923,[29] and that dispensaries, for example, are included in the expression "medical establishments."

2. It is understood that the phrase "recognized as existing in Turkey before the 30th October, 1914," includes not only the institutions which, having been recognized as legally existing at the date indicated, actually exist, but also those institutions which have not again resumed their activity.

3. It is understood that if the Turkish Government undertakes to examine with good will the case of other similar institutions existing in fact in Turkey at the date of the treaty of peace, it follows that it will not close these institutions pending the examination thus contemplated.

The Turkish delegation confirms its preceding assurances on these three points.

711.672/173

The Special Mission at Lausanne to the Secretary of State

LAUSANNE, *August 6, 1923.*
[Received August 23.]

DEAR MR. SECRETARY: The Treaty of amity and commerce which we have signed today with the Turkish delegation is far from what I should have wished to have it. It represents a considerably greater number of concessions on our part to meet the Turkish

[26] Transmitted to the Department in despatch no. 18–A, May 21, from the Special Mission at Lausanne. This document is inserted here as it formed an indispensable part of the final settlement at Lausanne between the United States and Turkey. At the meeting of the American and Turkish plenipotentiaries on Aug. 6, the chief Turkish delegate formally stated that the assurances contained in this report applied to American institutions. See minutes of the meeting of Aug. 6, *supra*.

[27] Translation supplied by the editor.

[28] The words quoted in this paragraph and in paragraph 2 are taken from an earlier draft of the declaration, afterwards issued under date of July 24, 1923, printed p. 1142.

[29] Great Britain, Cmd. 1814, Turkey No. 1 (1923), p. 800.

point of view than concessions on their part to meet ours. Among other concessions we have given up the articles on naturalization and claims, we have failed to obtain the desired modifications in the Judicial Declaration and we have failed to obtain any provision whatever with regard to minorities.

On the other hand, it was we who laid the original draft treaty before the Turks. Had they first submitted their own draft, the principal concessions would doubtless have been on the other side of the column. Our obtaining most favored nation treatment in the establishment articles was perhaps the most important principle gained.

Whatever may be the fate of this treaty in the Senate and however it may disappoint the American people, I feel, and this feeling is shared by every member of our delegation, after careful study of the situation as it existed and has developed, that more favorable terms could not have been obtained at this time and that it is at least open to doubt whether even equally favorable terms could be obtained later.

As regards our tactics during the negotiations, it may well have seemed to the Department that at times we have appeared over-impressed by Ismet's "last words" and the indications of his early departure from Lausanne. I do not think that our anxiety was unjustified. When the date of the opening of the National Assembly was fixed for August 3rd, there is no doubt that Ismet had planned to be in Angora for that date. We were continually confronted with the possible danger to our interests of allowing him to leave before signature and the disadvantages, fully recognized by the Department, of a postponement of the negotiations. Had we not made the tentative concessions on naturalization, the judicial declaration and the capitulations article when we did, I believe he might and probably would have gone. If our negotiations were to have been a matter of "trading", it could be held that Ismet had played a subtle and clever game. But we do not and cannot feel that the question of trading entered into these negotiations at all. We can only conjecture how much importance be [*he?*] attached to signing the treaty here, but we are all convinced that he would not have signed it, now or later, with the inclusion of the features to which the Turkish Government objected. I therefore feel that our concessions were made at the proper moment and were essential to the conclusion of the negotiations.

Throughout our negotiations we have all felt that the Turks were essentially honest. I have this impression very strongly as a result

of numerous conferences with Ismet and I find that the other members of our Delegation have the same feeling as a result of their meetings with the Turkish experts. The bargaining method, as I have said before, was not in evidence; the Turks were logical and frank in their methods. They knew at the start what they wanted and what they were prepared to give and we are convinced that no considerations or tactics would have led them to depart from their position in any appreciable degree.

With regard to the practical effect of our treaty on American interests in Turkey, I cannot do better than to enclose a memorandum [30] drawn up by Mr. Shaw who, next to Admiral Bristol, probably understands the situation in Turkey better than any other American. It explains itself and needs no comment from me. Shaw's views have the full indorsement of Dolbeare and Barnes.

Before closing, I should like respectfully to express my full appreciation of the support and encouragement which the Department has given us throughout these negotiations and further to record in the highest terms my commendation of the efficient work, sound judgment and admirable spirit of every member of our staff throughout the Conference and our own negotiations.

With high respect [etc.] JOSEPH C. GREW

711.672/231 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 8, 1923—3 p.m.*

[Received 4:55 p.m.]

320. For the purpose of informal consultation on current matters of general interest, it has been my custom from time to time to convene the leaders of the American colony. Yesterday such a meeting was held at the Embassy with representatives of the following American interests: Constantinople College, Robert College, American Hospital, Y. W. C. A., American Board of Commissioners for Foreign Missions and the two schools at Constantinople subject to the Board, Chamber of Commerce, Standard Oil, American Express, American Insurance Companies, and American Foreign Trade Corporation.

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[30] Not printed.

It was reported by those present at the meeting that their various activities were on the whole progressing satisfactorily under the present regime in Turkey, that the difficulties encountered every now and then are not different in degree from those difficulties to which, during the Sultan's regime, they had become accustomed, and that the Turkish authorities in settling these difficulties have been found to be reasonable and well disposed. In declaring that their work was proceeding to their satisfaction the heads of the educational institutions were especially emphatic and they stated that they look forward to the future with reasonable confidence. However, all present were unanimous in deploring the unsettled status of American interests in Turkey and in desiring therefore the ratification of our treaties. I had not intended that this question of our treaties should be brought up at this meeting, but it was introduced spontaneously in the course of the discussions. It would be most unfortunate, was the view expressed, for people in the United States whose interest in Turkey was at best intangible, to jeopardize the practical work of American philanthropists, educators, and business men in Turkey by preventing or delaying ratification. Failure to ratify, it was stated, would complicate the political relations between the two countries to such an extent as to render difficult, if not impossible, the continuance in Turkey of American activities of any kind.

On its own initiative the Chamber of Commerce on December 6th sent to its New York section a telegram to be read at the annual banquet of that section on December 7th, in which emphasis was laid on the importance of the early ratification of the treaties.

BRISTOL

711.672/254½

The Minister in Switzerland (Grew) to the Secretary of State

No. 1354 BERNE, *January 29, 1924.*
[Received February 18, 1924.]

SIR: With reference to my despatch No. 1270 of November 29, 1923,[81] and other correspondence relating to the printed texts of the General Treaty and the Treaty of Extradition signed between the United States and Turkey on August 6, 1923 at Lausanne, I have the honor to transmit herewith to the Department the following texts of the treaties received yesterday from the High Commission in Constantinople:

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[81] Not printed.

ENGLISH TEXTS

GENERAL TREATY

1. Copy with the United States mentioned first, signed and sealed by both the American and Turkish plenipotentiaries.
2. Copy with the United States mentioned first, with signatures printed.

EXTRADITION TREATY

3. Copy with the United States mentioned first, signed and sealed by both the American and Turkish plenipotentiaries.
4. Copy with the United States mentioned first, with signatures printed.

TURKISH TEXTS

GENERAL TREATY

5. Copy with the United States mentioned first, signed and sealed by both the American and Turkish plenipotentiaries.
6. Copy with the United States mentioned first, with signatures printed, in duplicate.

EXTRADITION TREATY

7. Copy with the United States mentioned first, signed and sealed by both the American and Turkish plenipotentiaries.
8. Copy with the United States mentioned first, with signatures printed, in duplicate.

I have also signed and sealed the Turkish texts in which Turkey is mentioned first and shall return them to the High Commission by the first available courier.

Admiral Bristol in a letter to me of January 23, 1924, states that the English text was carefully reconciled with the Turkish text before the Turkish text was printed, and that after receiving the present treaties from Angora in English and Turkish, duly signed, they were again reconciled, the translations in both cases being checked up by Mr. Lewis Heck and Mr. Fred Goodsell. Admiral Bristol adds that when the translation from English into Turkish was first examined, some glaring errors were found. He believes that the Turkish translation is such that there will not be mistakes in these treaties as have occurred in the past in treaties between the United States and Turkey, due to errors in translation. He states further that Mr. Heck and Mr. Goodsell were very obliging in doing this work.

I have [etc.] JOSEPH C. GREW

[Enclosure 1]

General Treaty between the United States of America and Turkey, Signed at Lausanne, August 6, 1923

THE UNITED STATES OF AMERICA
AND
TURKEY

equally animated by a desire to regulate the conditions of intercourse and residence of their nationals on their respective territories and to re-establish their consular and commercial relations in accordance with the principles of international law and on the basis of complete reciprocity, have resolved to conclude a treaty to this end and have named as their plenipotentiaries, to wit:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

Joseph C. Grew, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Swiss Confederation;

THE GOVERNMENT OF THE GRAND NATIONAL ASSEMBLY OF TURKEY,

Ismet Pasha, Minister of Foreign Affairs of the Government of the Grand National Assembly of Turkey, Deputy of Adrianople in the said Assembly;

Doctor Riza Nour Bey, Minister of Sanitary Affairs and of Social Welfare of the Government of the Grand National Assembly of Turkey, Deputy of Sinope in the said Assembly; and

Hassan Bey, former Minister of National Economy of the Government of the Grand National Assembly of Turkey, Deputy of Trebizond in the said Assembly;

Who, after having exhibited their full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

Each of the High Contracting Parties agrees to receive within its territory the diplomatic officers of the other Party. They shall be accorded, on condition of reciprocity, treatment as favorable as that which is or shall be accorded to the diplomatic officers of any other country, in conformity with the principles of international law.

ARTICLE II

The High Contracting Parties declare the Capitulations concerning the regime of foreigners in Turkey, completely abrogated, both as regards conditions of entry and residence and as regards fiscal and judicial questions, together with the economic and financial system resulting from the Capitulations.

ARTICLE III

The nationals of each of the High Contracting Parties shall have complete liberty to enter and establish themselves in the territory of the other Party and may accordingly come, go, and reside therein upon complying with the laws and regulations in force in the country.

They shall, under the conditions imposed upon nationals of the country, enjoy the most constant protection and security for their property and their persons in accordance with generally recognized international law.

They may, in conformity with the laws and regulations in force, engage without hindrance in every kind of profession, industry or commerce not forbidden by the local laws to all foreigners.

They shall, in conformity with the provisions of law in force in the country, on an equal footing with the nationals thereof, have the right to acquire, possess and dispose of all kinds of movable property. As regards the acquisition, possession, and disposition of immovable property the nationals of each of the High Contracting Parties shall enjoy in the territory of the other, subject to reciprocity, the treatment generally accorded to foreigners by the laws of the place where the property is situated; accordingly, they may own, lease, and construct buildings and appurtenances for residential purposes or for any other purpose permitted by the present Treaty. They may also employ agents of their choice and do anything incidental to or necessary for the enjoyment of the rights above mentioned.

Upon complying with the local laws and regulations, they shall enjoy complete liberty of conscience and worship and shall have free access to the courts of justice of the country, as well for the prosecution as for the defense of their rights, in all the degrees of jurisdiction established by the law.

Moreover, they shall not be deprived of their property without due process of law nor without payment of just indemnity.

ARTICLE IV

Limited liability companies or other commercial, industrial, or financial companies and associations (including transportation and insurance companies) organized under the laws of the United States or of Turkey, in their respective territories, and having their central offices in the country of their organization, shall be recognized by the other country, provided that they pursue no aims contrary to the laws of that country. They shall be entitled to the same protection and the same security accorded by Article III to the nationals of

each of the High Contracting Parties in the territory of the other Party. Upon complying with the applicable laws, they shall enjoy free access to the courts of justice, as well for the prosecution as for the defense of their rights and in all the degrees of jurisdiction established by the law.

The companies and associations above mentioned shall, in conformity with the provisions of law in force in the country, have the right to acquire, possess, and dispose of every kind of movable property. As regards the acquisition, possession, and disposition of immovable property, as well as the right to engage in the various kinds of commerce and industry, the above mentioned companies and associations, nationals of each of the High Contracting Parties, shall enjoy in the territory of the other Party, upon condition of reciprocity, the treatment generally accorded by the local laws to similar foreign companies. It is understood that the companies and associations in question shall be able freely to carry on their activities subject to the observance of the regulations of public order.

Article V

Domiciliary visits and searches in dwellings, warehouses, factories, stores and other buildings occupied by the nationals, companies or associations referred to in Articles III and IV, of each of the High Contracting Parties within the territory of the other Party, as well as the examination or inspection of books, papers or accounts in such buildings or premises, may be effected only under the conditions and in accordance with the forms prescribed by the laws, regulations and ordinances in respect to the nationals of the country.

Article VI

The nationals of each of the High Contracting Parties shall, in the territory of the other Party, be exempt from compulsory military service, on land or sea, and from any contribution in lieu of military service.

No forced loan or other exceptional levy upon property shall be imposed even in case of war, on the nationals of either of the High Contracting Parties, established or carrying on their activities in the territory of the other Party nor on their property, rights and interests situated in the territory of that Party, nor on companies, subsidiaries, branches or agencies organized under the laws of one of the High Contracting Parties and established or carrying on their activities in the territory of the other Party.

Article VII

In all that pertains to the imposition and collection of taxes, imposts and charges of any kind and to the exemption from such taxes, imposts and charges the nationals of each of the High Contracting Parties residing or being within the territory of the other Party, shall be accorded the same treatment as nationals of the country.

As regards the imposition and collection of taxes, imposts, and charges of any kind and the exemption from such taxes, imposts, and charges, the companies or associations mentioned in Article IV, having their central offices in the territory of one of the High Contracting Parties and carrying on their activities in the territory of the other Party, shall, upon condition of reciprocity, enjoy the same treatment as any similar foreign company or association.

It is nevertheless understood that the provisions of this Article cannot be made the basis for demanding the benefit of the exemption from charges which is accorded to establishments founded by the State or to concessionaries of a public service.

Article VIII

In matters of personal status and family law (including all questions concerning marriage, matrimonial regimes, divorce, judicial separation, dowry, paternity, filiation, adoption, personal capacity, majority, guardianship, trusteeship, and interdiction) and in respect to the law of testamentary or intestate succession to movable property and the distribution and liquidation thereof, the non-Mussulman nationals of the United States in Turkey shall be subject exclusively to the jurisdiction of the national tribunals or other national authorities of the United States or of the competent State, territory or possession thereof sitting outside Turkey.

The present provision does not prejudice the special attributions of Consuls in matters of civil status under international law or the special agreements which may be made, nor does it prejudice the right of the Turkish tribunals to require and receive evidence in regard to questions above recognized as being within the competence of the national tribunals or other national authorities of the interested parties.

By way of exception to the first paragraph, the Turkish tribunals may also be competent in the questions indicated in the said paragraph, if all the interested parties submit in writing to the jurisdiction of these tribunals, which shall decide in accordance with the national law of the parties.

All questions of judicial competence shall, under reserve of the above provisions, be regulated in accordance with the principles of international law.

Article IX

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties, equally with those of the most favored nation, may freely come with their vessels and cargoes to all places, ports and waters within the territorial limits of the other Party which are open to foreign commerce and navigation. No provision of the present Treaty shall be interpreted as restricting the right of either of the High Contracting Parties to impose, under the conditions which it shall deem fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life or regulations for the enforcement of police and revenue laws.

Merchant vessels or other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of their cargoes at any port open to foreign commerce in the territory of the other High Contracting Party and to proceed with the remaining portions of such cargoes to any other port of the same territory open to foreign commerce, without paying in such case other or higher tonnage dues or port charges than would be paid by national vessels in like circumstances; they shall be permitted to load in like manner at different ports in the course of the same voyage outward, it being understood, however, that the coastwise trade in the waters of the High Contracting Parties is not affected by the provisions of this Article nor by any other provision of the present Treaty, and is to be regulated according to the laws of each of the High Contracting Parties.

Article X

The commercial vessels and aircraft and the war vessels and aircraft of the United States of America shall enjoy complete liberty of navigation and passage in the Straits of the Dardanelles, the Sea of Marmora, and the Bosphorus, on a basis of equality with similar vessels and aircraft of the most favored foreign nation upon conforming to the rules relative to such navigation and passage established by the Straits Convention signed at Lausanne, July 24, 1923.[33]

Article XI

No other or higher duties shall be imposed upon the importation into the territories of either of the High Contracting Parties of any article originating in and proceeding from the territory of the other Party, and being of the produce or manufacture of that territory,

[33] Great Britain, Cmd. 1929, Treaty Series No. 16 (1923), p. 109.

than are or shall be in the future imposed upon like articles of the most favored nation. Likewise, no other or higher duty shall be imposed in the territory of one of the High Contracting Parties upon the exportation of any article to the territory of the other Party than is or shall in the future be imposed upon the exportation of like articles to any other foreign country. Nor shall the importation or exportation to or from the territory of either of the High Contracting Parties of any article originating in and proceeding from the territory of the other Party, and being of the produce or manufacture of that territory, be subjected to any prohibition, restriction or condition which shall not equally apply to the like articles of the most favored nation.

With respect to the amount and collection of duties on imports and exports of every kind, each of the High Contracting Parties binds itself to give to the vessels and goods of the other Party the advantage of all favors and facilities which are or shall be accorded to the vessels and goods of any third State and regardless of whether such favors and facilities are accorded to the State in question gratuitously or in return for reciprocal compensatory treatment. Every such favor and facility which shall hereafter be granted by one of the High Contracting Parties to the vessels or goods of any third State, shall, simultaneously and unconditionally, without request or compensation, be extended to the vessels and goods of the other Party.

The provisions of the present Article do not extend to the treatment which is accorded by the United States of America to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States of America and Cuba on December 11, 1902,[84] or which shall be accorded under the provisions of any other commercial convention which may hereafter be concluded by the United States of America and Cuba, or to the commerce of the United States of America with any of its dependencies or with the Panama Canal Zone under existing or future laws.

The provisions of the present Article in like manner do not extend to the special advantages and favors in the matter of the customs tariff, or generally in any other commercial matter, existing, or to be established in the future, between Turkey and the countries detached from the Ottoman Empire following the war of 1914, nor to frontier traffic with a state contiguous to Turkey.

Article XII

With respect to the imposition and collection of consumption or excise taxes and *octroi* or any other taxes collected by local authorities,

[84] Malloy, *Treaties*, 1776–1909, vol. I, p. 353.

merchandise originating in and proceeding from the territory of one of the High Contracting Parties shall, upon condition of reciprocity, be accorded, in the territory of the other Party, treatment as favorable as that which is or may be accorded to identical or similar merchandise of the nation most favored in this respect.

Article XIII

Merchandise originating in and proceeding from the territory of either of the High Contracting Parties, and being of the produce or manufacture of such territory, shall receive, in the territory of the other Party, with respect to transit duties, charges in regard to warehousing and other facilities, and the amount of drawbacks the same treatment as merchandise of the most favored nation.

Article XIV

No tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duty of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, associations or establishments of any kind shall be imposed in the ports of the territories of one of the countries upon the vessels of the other country, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of both countries, respectively, from whatever place they may arrive and whatever may be their destination.

Article XV

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its laws in proof of nationality, shall, both within the territorial waters of the other and on the high seas, be deemed to be vessels of the Party whose flag is flown.

Article XVI

The nationals of each of the High Contracting Parties shall, upon the fulfillment of the formalities prescribed by local law, enjoy in the territory of the other Party the same protection as nationals of the most favored nation in regard to patents, designs, trademarks, trade names, models and working patterns.

Article XVII

Each of the High Contracting Parties agrees to admit in all ports, cities and places within its territory, consular officers (consuls-

general, consuls, vice-consuls and other consular officers) of the other Party, except in the localities in which it may be inconvenient to admit such officers. This exception shall not, however, be applied to one of the High Contracting Parties unless it is also applied to every other Power.

In case a consular officer is not a national of the Party by which he is appointed, the consent of the other Party must be obtained through diplomatic channels before his appointment.

Article XVIII

Consular officers of each of the High Contracting Parties shall enjoy, reciprocally, in the territory of the other Party, all rights, privileges, exemptions and immunities which are or shall be enjoyed by officers of the same grade of the most favored nation.

Such consular officers shall be entitled, in the country which receives them, to the high consideration of all officials with whom they have official intercourse.

The Government of each of the High Contracting Parties shall furnish the necessary exequatur free of charge to such consular officers of the other Party as present a regular commission signed by the Chief Executive of the appointing country and under its great seal, and shall likewise issue to any subordinate or substitute consular officer duly appointed by a superior consular officer with the approval of his Government or by any other competent officer of that Government, such documents as, according to the local laws, shall be requisite for the exercise of his consular functions. On the presentation of an exequatur or other document issued in lieu thereof, such consular officers and subordinate or substitute officers may enter upon their duties and enjoy the rights, privileges and immunities granted by the present Treaty.

It is understood that each of the High Contracting Parties reserves the right, for substantial reasons which it alone shall be entitled to judge, to refuse or withdraw an exequatur or other document issued in lieu thereof.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors may temporarily exercise the consular functions, provided that their official character has previously been made known to the Government of the country. Such persons, while temporarily exercising the consular functions, shall enjoy all the rights, prerogatives and immunities granted to the incumbent; provided, however, that if they are not nationals of the country by which they are appointed, they shall enjoy the said rights, prerogatives and immunities only to the extent necessary for the exercise of the consular functions.

ARTICLE XIX

Consular officers may place over the outer door of their respective offices the arms of their country with an appropriate inscription designating the official character of the said offices. Such officers may also hoist the national flag on their offices, including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat employed in the exercise of the consular functions.

The consular offices, chancelleries and archives shall at all times be inviolable. The said offices and chancelleries shall, under no circumstances, be subjected to invasion by any authorities of the country in which they are situated. Nor may the papers or other objects therein be examined or seized by such authorities under any pretext. The consular offices and chancelleries shall in no case be used as places of asylum. No consular officer shall be obliged to produce official archives in court or to testify regarding their contents.

If a consular officer is engaged in occupations other than the consular functions, the papers relating to such occupations shall be kept separate.

ARTICLE XX

Consular officers, nationals of the country by which they are appointed, may not be subjected to preventive arrest, except when charged with the commission of offenses designated as crimes and punishable as such under the local law.

The attendance of a consular officer as a witness may be requested, in criminal cases, by the judicial authorities, the prosecution or the defense. Such attendance shall be requested with all possible regard due the consular dignity and the duties of the office. The consular officer shall comply with the request.

Consular officers shall, under the same conditions as nationals of the country by which they are appointed, be subject in civil matters to the jurisdiction of the courts in the country which receives them.

In cases other than those mentioned in paragraph 2, a consular officer who is a national of the country by which he is appointed, and who is engaged in no private occupation for gain, shall voluntarily give his testimony in the course of judicial proceedings whenever it is possible for him to do so without seriously interfering with his official duties. However, he shall have the privilege of giving his testimony orally or in writing at his residence or office and with due regard for the consular dignity.

ARTICLE XXI

Consular officers, nationals of the country by which they are appointed, shall be exempt from military billetings and from any

service whatsoever of military, naval, administrative or police character.

Consular officers and employees in a consulate, nationals of the country by which they are appointed and not engaged in private occupations for gain within the country where they exercise their functions, shall be exempt from all direct taxes (national, state, provincial or municipal) levied upon person or property, except taxes levied on account of the possession or ownership of immovable property situated in the territory of the country within which they exercise their functions, or on the income derived from property of any kind situated or deemed to be situated in that country. Consular officers and employees, nationals of the country by which they are appointed, shall be exempt from the payment of taxes on the salary, fees or wages received in compensation for their consular services.

Lands and buildings which are situated in the territory of either High Contracting Party and which belong to the other Party and are used exclusively for diplomatic and consular purposes, shall be exempt from taxation of every kind (national, state, provincial or municipal) other than assessments levied for services or local public improvements.

Article XXII

Each of the High Contracting Parties agrees to permit the entry free of duty of all furniture, equipment and supplies intended for official use in the consular offices of the other Party, and to extend to those consular officers who are nationals of the country by which they are appointed, and to their families and to those members of their suites who are also its nationals, the privilege of entry free of duty of their baggage and all other personal property of the first installation; provided, however, that no article the importation of which is prohibited by the law of either of the High Contracting Parties may be brought into its territory.

It is understood that the privilege of free entry shall not be extended to consular officers who are engaged in private occupations for gain in the country to which they are appointed.

Article XXIII

Consular officers may, within their respective consular districts, address the national, state, provincial, or municipal authorities, competent to receive such representations, for the purpose of assuring the rights accruing, by treaty or otherwise, to nationals of the country by which such officers are appointed. They may make complaint in case of the infraction of those rights.

If the competent authorities do not respond satisfactorily to their requests, recourse to the diplomatic channel may be justified.

Article XXIV

Consular officers may, in conformity with the laws of the country by which they are appointed, receive, within their respective districts, the voluntary depositions of nationals of their country as well as the voluntary depositions of the captain, the crew and the passengers of a vessel of that country.

They may, without prejudice to the competence of the local notarial officers, draw up, attest, certify and authenticate the contracts to which a national of their country is a party and which are to be presented for any use in a country other than that in which such officers exercise their functions.

Consular officers may also authenticate the signatures which the nationals of their country have affixed to contracts made with the nationals of a third Power.

Consular officers may likewise draw up, attest, certify and authenticate the testamentary dispositions of nationals of their country; provided, however, that such dispositions do not relate to immovable property situated in the territory of the country in which they exercise their functions.

Moreover, they may draw up, attest, certify and authenticate written instruments of any kind which have for their object the conveyance or encumbrance of property of any kind within the territory of the country by which such consular officers are appointed, as well as unilateral acts, deeds, testamentary dispositions and contracts relative to property situated or business transactions conducted in the territory of the country by which they were appointed; including unilateral acts, deeds, testamentary dispositions or agreements relating to the above mentioned property or business transactions and executed solely by nationals of the country in which such officers exercise their functions.

Instruments and documents thus executed and copies or translations thereof, when duly authenticated by a consular officer under his official seal, shall be received as evidence in the territories of the High Contracting Parties, as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn up and attested by a notary or other public officer duly authorized in the country by which the consular officer is appointed; provided, always, that such documents shall have been drawn up and attested in conformity to the laws and regulations of the country where they are designed to take effect.

Article XXV

In case of the death of a national of one of the High Contracting Parties in the territory of the other Party, without having in that territory any known heirs or any testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the country of which the deceased was a national, in order that the necessary information may be transmitted to the parties interested.

In case of the death of a national of one of the High Contracting Parties, without will or testament, in the territory of the other Party, the consular officer of the country of which the deceased was a national and within whose district he resided at the time of his death, shall, in so far as the laws of the country permit and pending the appointment of an administrator and the granting of letters of administration, be qualified to take charge of the property of the deceased for the purpose of conserving and protecting the said property. Such consular officer may, if the local laws permit, be appointed administrator by the competent tribunal or other authority competent in matters of succession.

A consular officer who accepts the office of administrator of the estate of a deceased national, is subject to the jurisdiction of the tribunal or other authority making the appointment, for all necessary purposes, to the same extent as a national of the country in which he administers the estate.

Article XXVI

Consular officers shall have exclusive cognizance of controversies relating to the internal order of merchant vessels and other private vessels under the flag of their country and they alone shall be competent to take cognizance of cases, wherever arising, between officers and crew concerning discipline on board, provided the vessel and the persons implicated in such cases have entered a port within their district. Such officers shall also, if the local laws permit, be competent to take cognizance of controversies concerning the adjustment of the wages of the crew and the execution of contracts relating thereto.

When an act committed on board a merchant vessel or other private vessel flying the flag of the country by which the consular officer is appointed and being within the territorial waters of the country in which he exercises his functions, is, according to local laws, defined as a crime and punishable as such, the consular officer may concern himself with the case only in so far as the local laws permit.

It is understood that except in the cases referred to in the preceding paragraph, the local authorities shall intervene only when the disorder that has arisen on board ship is of such a nature as to disturb tranquility and public order, on shore or in the port, or when a person of the country or not belonging to the crew shall be concerned therein.

Consular officers may, within the territorial waters of the country in which they exercise their functions, freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board a vessel under the flag of the country by which they were appointed, and upon their request the necessary assistance shall be given them.

Consular officers may appear with the officers and crews of vessels under the flag of the country by which they are appointed, before the judicial authorities of the country in which they exercise their functions, to render assistance as interpreters or agents.

Article XXVII

If a vessel of one of the High Contracting Parties is wrecked off the coasts of the other Party, the consular officer of the country the flag of which such vessel flies and within whose consular district the wreck may have occurred, shall direct the operations of salvage. Pending the arrival of such consular officer, who shall immediately be informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the conservation of wrecked property. They shall interfere only to protect the interests of the salvors who do not belong to the crew of the wrecked vessel and to assure the execution of the dispositions to be observed for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customs charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the conservation of the merchandise saved, and such as would be incurred in similar circumstances by national vessels.

Article XXVIII

The territories of the High Contracting Parties to which the provisions of the present Treaty extend, include all areas of land, water and air over which the Parties exercise their sovereign authority, except the Panama Canal Zone.

ARTICLE XXIX

American nationals and their property shall be exempt from the payment, on account of fiscal years prior to the fiscal year 1922–1923, of any impost, tax or surtax to which, in virtue of the status which they enjoyed on August 1, 1914, they were not subject.

In case sums have been collected after May 15, 1923, on account of fiscal years prior to the fiscal year 1922–1923, the amount thereof shall be reimbursed to those entitled, on the coming into force of the present Treaty.

There shall be no recourse as regards the sums collected prior to May 15, 1923.

ARTICLE XXX

From the coming into force of the present Treaty the Treaties heretofore concluded between the United States of America and the Ottoman Empire shall absolutely and finally cease to be effective as between the High Contracting Parties.

The High Contracting Parties agree to replace the Treaty of Extradition of 1874 by the new Treaty of Extradition signed this day.

ARTICLE XXXI

The present Treaty shall come into force two months after the date of the exchange of ratifications. Articles I and II of this Treaty shall have a permanent duration. Articles III, IV, V, VI, VII and VIII shall have a duration of seven years. Articles IX to XXVII shall have a duration of five years.

Should neither of the High Contracting Parties have notified the other six months before the expiration of the respective periods above indicated of its intention to denounce the groups of Articles to which these periods apply, the said Articles will remain in force until the expiration of a period of six months from the moment at which they shall have been denounced.

ARTICLE XXXII

The present Treaty, in French, English and Turkish, shall be ratified. In case of divergence the French text shall prevail.

The ratifications shall be exchanged at Constantinople as soon as possible.

IN FAITH WHEREOF the Plenipotentiaries above named have signed the present Treaty and have thereto affixed their seals.

DONE AT LAUSANNE, August 6, 1923.

[SEAL]	JOSEPH C. GREW.	[SEAL]	M. ISMET
		[SEAL]	DR. RIZA NOUR
		[SEAL]	HASSAN

[Enclosure 2]

Extradition Treaty between the United States of America and Turkey, Signed at Lausanne, August 6, 1923 [35]

THE UNITED STATES OF AMERICA
AND
TURKEY,

having deemed it advantageous, with a view to assuring a better administration of justice, to surrender, reciprocally, under certain specified circumstances, persons sentenced or prosecuted for the crimes and offenses indicated hereinafter, have resolved to conclude a new Extradition Treaty and to that end have appointed as their Plenipotentiaries, to wit:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

Joseph C. Grew, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Swiss Confederation;

THE GOVERNMENT OF THE GRAND NATIONAL ASSEMBLY OF TURKEY,

Ismet Pasha, Minister of Foreign Affairs of the Government of the Grand National Assembly of Turkey, Deputy of Adrianople in the said Assembly;

Doctor Riza Nour Bey, Minister of Sanitary Affairs and of Social Welfare of the Government of the Grand National Assembly of Turkey, Deputy of Sinope in the said Assembly; and

Hassan Bey, former Minister of National Economy of the Government of the Grand National Assembly of Turkey, Deputy of Trebizond in the said Assembly;

Who, after having exhibited their full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

The Government of the United States of America and the Government of the Grand National Assembly of Turkey agree upon requisition to deliver reciprocally persons who, being prosecuted or condemned by the judicial authorities of one of the High Contracting Parties for any of the crimes or offenses enumerated in Article II, committed in territory subject to the jurisdiction of such Party, may seek asylum or be found in the territory of the other Party. Nevertheless, the extradition shall take place only if the evidence of culpability is such that, according to the laws of the place where the fugitive or accused is found, it would justify his apprehension and warrant penal proceedings had the act been committed there.

[35] Filed separately as Treaty Series No. 872.

Article II

Extradition shall be granted for the following crimes and offenses, provided they are punishable both under the laws of the place of refuge and under those of the State making the requisition, to wit:

1.—Wilful homicide, including parricide, assassination, poisoning and infanticide.

2.—Arson.

3.—Piracy; mutiny on board a vessel when the crew or a part thereof or other persons on board shall have taken possession of the vessel, by means of fraud or violence against the captain.

4.—The act of breaking into and entering a dwelling house in the night time with intent to commit therein a crime, the character of which shall be specified in the documents referred to in Article VI. (Crime of burglary.)

5.—The forgery or falsification of public or private documents; fraudulent use of forged or falsified documents.

6.—Counterfeiting, forgery or alteration of money (either coin or paper), public bonds and their coupons, bank-notes, debentures, or other documents or instruments of credit; the issuance, circulation or use thereof with fraudulent intent; forgery or counterfeiting of public seals, dies, stamps or marks, as well as the fraudulent use of such forged or counterfeited objects.

7.—Embezzlement of public funds by the depositaries of such funds or by public officers, when the funds embezzled exceed 200 dollars or the equivalent in Turkish money.

8.—Embezzlement by a person or persons employed or salaried, to the detriment of their employers, provided that such crime or offense is punishable by imprisonment or more severe penalty under the laws of both countries, and that the funds embezzled exceed 200 dollars or the equivalent in Turkish money.

9.—Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

10.—Abortion; rape; violation; kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, for the purpose of exacting money from them or their families, or for any other unlawful end.

11.—Robbery; house-breaking or shop-breaking.

12.—Larceny, if the money or the value of the objects stolen exceeds 25 dollars or the equivalent in Turkish money.

13.—Swindling; receiving money, securities or other property, knowing the same to have been embezzled, stolen or fraudulently obtained; when the amount of money or the value of the property exceeds 200 dollars or the equivalent in Turkish money.

14.—Fraud or breach of trust by any person; notably, by a depositary, agent, banker, or trustee, or by the president, a member or any officer of a company or association, if the loss suffered exceeds 200 dollars or the equivalent in Turkish money.

15.—Perjury or subornation of perjury.

16.—Crimes or offenses against the laws of both countries relative to the suppression of slavery and the slave trade.

17.—Fraudulent bankruptcy.

18.—Bribery.

19.—Serious woundings the minimum punishment of which is not less than one year of imprisonment.

20.—Attempt to commit offenses mentioned above, when such attempt is punishable as a crime.

21.—Complicity in any of the above mentioned crimes or offenses provided such complicity is punishable by imprisonment or a more severe penalty by the laws of both the Contracting Parties.

Article III

Extradition shall not take place for political crimes or offenses nor for acts connected with such crimes or offenses.

The attack upon the life of the Head of a State or the members of his family shall not be deemed a political crime or offense.

No person surrendered by one of the High Contracting Parties to the other Party shall be prosecuted or punished for an offense committed before the demand of extradition other than that for which the extradition has been granted, unless such person expressly consents in writing, which shall be communicated to the Government of the Party which effected the extradition; or unless, having had during 30 days since his definitive release the opportunity of leaving the territory of the State which demanded his extradition, he has not availed himself of this opportunity; or finally, unless he returns to such territory after having left it.

Article IV

When the person whose extradition is demanded is under prosecution, whether in custody or out on bail, for another offense committed in the country in which he has sought asylum, or when he has been convicted of such offense, his extradition may be deferred until the penal proceedings be determined and until he shall have been definitely set at liberty in due course of law.

Article V

The High Contracting Parties shall not be bound to accord the extradition of their respective nationals.

Article VI

Demands for extradition shall be made through diplomatic channels.

When the person whose extradition is demanded shall have been sentenced for the offense which occasioned the demand for extradition, the demand must be accompanied by an authentic copy of the sentence pronounced. If the person claimed is merely charged with an offense, the demand must be accompanied by a duly certified copy of the warrant of arrest issued by the competent magistrate of the Party demanding the extradition, as well as by duly authenticated copies of the depositions or other evidence upon the basis of which the warrant was issued. These documents must contain the precise indication of the offense charged and of the place where and the time when it was committed. They must be accompanied by a duly certified copy of the provisions of law applicable to the offense charged as well as by the elements necessary to establish the identity of the person claimed.

The documents above indicated shall be drawn up in the form prescribed by the laws of the Party demanding the extradition and shall be accompanied by a translation, in the language of the Party from which the extradition is demanded or in French, certified to be in conformity with the original.

It is understood that the extradition procedure shall be governed by the regulations in force at the time of the demand in the State upon which the demand is made.

Article VII

When provisional arrest of a person is requested before the demand for extradition has been presented, the demand relating thereto shall be made through the diplomatic channel or addressed directly to the competent authorities of the Party on which it is made by the competent Consul of the Party making the demand or by another person duly authorized by such Party. The procedure to be followed for the arrest shall be governed by the regulations in force in the State on which the demand is made.

The provisional detention must cease and the person arrested must be set at liberty unless within three months, dating from the arrest, not including the day of the arrest, a formal demand for extradition, accompanied by the necessary documents, is presented in the manner prescribed in Article VI.

ARTICLE VIII

Extradition shall not be accorded when under the law of the Party on which demand is made or under that of the Party making the requisition the prosecution or the penalty imposed is barred by limitation.

ARTICLE IX

All articles seized which are in the possession of the person demanded, at the time of his arrest, shall, at the time of the extradition, be delivered up with his person to the Party making the demand; such delivery shall extend not only to articles acquired by means of the offense with which the accused is charged but also to all other articles that may serve to prove the offense. The rights of third parties with regard to the articles in question shall, however, be duly respected.

ARTICLE X

The expenses of the arrest, detention and transportation of the persons extradited shall be paid by the Party making the requisition.

ARTICLE XI

The present Treaty shall come into force two months after the date of the exchange of ratifications and shall remain in force for five years

If this Treaty is not denounced by one of the High Contracting Parties at least six months before the expiration of the said period of five years, it shall remain in force until it is denounced, such denunciation becoming effective only after the expiration of a period of six months.

ARTICLE XII

The present Treaty, in French, English and Turkish, shall be ratified. In case of divergence the French text shall prevail.

The ratifications shall be exchanged at Constantinople as soon as possible.

IN WITNESS WHEREOF the above mentioned Plenipotentiaries have signed the present Treaty and have affixed their seals thereto.

DONE AT LAUSANNE, August 6, 1923.

[SEAL] JOSEPH C. GREW.

[SEAL] M. ISMET

[SEAL] DR. RIZA NOUR

[SEAL] HASSAN

EXCHANGE OF LETTERS BETWEEN THE UNITED STATES AND TURKEY PROVIDING FOR THE ESTABLISHMENT OF A JOINT COMMITTEE TO EXAMINE CLAIMS

467.11 W 89/29a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *August 8, 1923—2 p.m.*

285. The following instruction to the High Commissioner at Constantinople is sent through you so that you may submit your comments and suggestions to Admiral Bristol and to the Department. Repeat to the High Commissioner as our 149.

1. In giving you authority to sign treaties with Turkey and to postpone the question of claims for future settlement, reserving the right to postpone ratification, the Department informed Grew that it had under consideration the possibility of having further examination of the question of claims take place in Turkey. Grew was also advised that the Department was considering in this connection the advisability of having you go to Angora so that in this way a satisfactory and effective plan for reaching a settlement might be worked out at an early date if possible.

2. The Department wishes therefore to have you arrange to go to Angora soon, after Shaw [36] and Turlington arrive at Constantinople. In order to assist you particularly in matters regarding the claims settlement, Turlington is attached temporarily to the High Commission. The exact time for your trip to Angora is left to your discretion. Should you consider it not advisable to go you should of course advise the Department at once. Ismet Pasha in the exchange of letters with Grew indicated that Turkey was willing to take up the question of claims 20 days after the signing of the treaty. You may think it wise to plan accordingly.

3. It is the Department's desire to avoid having any delay by Turkey in ratifying the treaty with us. The Turks may be ready to proceed at once to ratification since they have indicated that they do not expect to file claims against the American Government.

4. The Department considers it important that our relations with Turkey be regularized soon, at a time not later than that of the establishment of regular relations between Turkey and the Allies if possible. In view of the recess of the Senate it will probably be some time before the treaty can be submitted for ratification in this country. However, it is not the intention of the Department to await ratification before resuming consular and diplomatic relations, if the treaty is ratified by Turkey and the progress made in considering our claims is satisfactory to us.

5. It is most important that there should be no impasse on the question of claims. The utmost discretion and tact will therefore be required on both sides, especially in resuming claims negotiations.

[36] G. Howland Shaw, attached to the High Commission at Constantinople.

The danger is that otherwise Turkey and the United States will each be forced to take a position from which it can recede only with extreme difficulty, with the result that settlement will be long delayed. The Department need not emphasize the complications which the question of recognition or nonrecognition by Turkey of the American naturalization of former Turkish subjects may introduce into the claims settlement. It is important that this question of naturalization should not be allowed to become the issue of chief importance in arranging for the settlement of claims. During the Lausanne Conference the attitude of the American Government and that of the Turkish Government were clearly brought out. The American law and the Turkish law are clear and are apparently in conflict. However, the Department hopes that it will soon be able to conclude with Turkey a naturalization convention similar to that which Grew proposed at Lausanne. Further telegraphic instructions on this subject will soon be sent to you, but perhaps it will be better to try to obtain a settlement of the claims question before you take up the naturalization convention.

6. The Department believes that in view of the situation set forth above the best method of procedure regarding claims would be to establish a commission of American and Turkish representatives to proceed to the consideration of individual claims at an early date. The commission should not be bound by specific rules. In this way we could present important claims offering no serious questions as to categories. Progress with these claims would facilitate the entire negotiation. Should Turkey consent to the establishment of such a committee without making reservations which perhaps we could not accept or which would expressly waive our legal and traditional stand regarding naturalized citizens, the Department would be ready to proceed along this line, not asking Turkey at present to express a willingness to settle claims of all categories which may be presented. If the Turks proceeded in good faith with the examinations of claims the Department would also be prepared to have it understood that points of difference which arose between the representatives of the United States and Turkey on the commission should be presented to the respective Governments for negotiation through diplomatic channels, and that where the representatives agreed, they should submit to the American and Turkish Governments a joint report, the two Governments then to proceed through diplomatic channels to negotiate with respect to the manner in which agreed claims would be settled. Should the Turks consent to have such an agreement embodied in a written communication the Department is ready to proceed without delay with the formation of the committee and to act to have the convention ratified when the Senate reconvenes.

7. You should submit your views after consulting with Shaw and Turlington and examining the Mission's records regarding the claims settlement and the various proposals which were advanced with the approval of the Department. When you arrive at Angora begin conversations soon with the Turkish authorities to have the matter promptly settled. Submit any proposed exchange of communications for the approval of the Department before final acceptance.

8. The Department is proceeding in the meantime with the prompt examination of claims against Turkey. As soon as possible it will forward to you with its recommendations those claims which have already been filed here in proper form. You need not wait, however, for this data before proceeding with the course outlined above.

HUGHES

467.11 W 89/25 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *September 15, 1923—3 p.m.*
[Received 10:25 p.m.]

240. Your telegram via Lausanne 149, August 8, 2 p.m.

1. Report from Barnes[37] states that he had conversation at Angora with Ismet on September 2. Barnes inquired about the return of Mustafa Cherif to Constantinople from Switzerland where he has been taking medical treatment. Although Ismet did not know when Cherif would return he expected to learn soon. Ismet inquired about date and place for resuming negotiations. In reply Barnes said that we had contemplated taking the negotiations up again at Constantinople on account of the difficulties of telegraphic communication and housing at Angora and in view of conversations between Turlington and Cherif. Barnes gave it as his opinion that negotiations could be completed by the end of September. Then Ismet repeated the reasons which had been given at Lausanne for the unwillingness of Turkey to enter into an engagement concerning the settlement of our claims prior to the presentation of the names of the claimants and an indication in detail of the character of the claims. He thought the new negotiations would bring no more results than those at Lausanne in the absence of the desired information, but he felt certain that with such information there need be no difficulty or delay in arriving at an arrangement satisfactory to both the American and Turkish Governments.

2. No confirmation has been received with respect to the provisional arrangement to have the discussions resumed September 20 at Constantinople. When Shaw talked with Munir and Nousret September 11 it was still uncertain when Mustafa Cherif would return. I believe, however, that it would not be very difficult to arrange for an early beginning of informal discussions here between experts, possibly exploratory in nature. This would prepare the way

[37] Maynard B. Barnes, delegate at Angora of the American High Commission at Constantinople.

for the formal negotiations and for the signing of a convention or the exchange of letters between myself and Ismet.

3. As soon as possible after the first meetings with the Turkish experts I shall offer definite recommendations with respect to the conduct of negotiations. However, I submit the following preliminary observations after consultation with Shaw and Turlington:

(*a*) I think it likely that the Turks would readily agree to the method of procedure which you suggest in paragraph 6 of your telegram under reference. The complete absence of the suggestion that political recognition or assent to the abolition of capitulations are things to be bargained for, as well as the entire freedom of the proposal from the savor of insistence upon the claiming of rights by virtue of the contribution which we made to the victory of the Allies over Turkey, would not fail of favorable notice by the Turks. Of course I recognize, as doubtless the Department does, that it is important not to allow the Turks to gain the impression at the beginning of the renewed negotiations that we have given up the principles we stood for during the Lausanne discussions. It is necessary, however, that we make substantial progress in a short time, and we must consider the fact that it is a characteristic of the Turkish mind to accommodate itself much more readily to the settlement of specific cases upon their special facts than to the acceptance of general principles which may be applied to categories of cases. We might be able in the discussion of specific cases, carefully chosen by the Department, not only to reassure the Turks with respect to the character of our claims, but also to set up precedents by which other cases in which the same principles were involved might be disposed of.

(*b*) It might not be advisable for us to propose the above-mentioned method of procedure at the opening of the new discussions here, in view of the strong position which we took at Lausanne. It is certain that the Turks will insist at the beginning of discussions that detailed information as to the character of our claims is necessary. Obviously it is not appropriate for us to give the names of claimants before the Department has approved their claims and prepared them for presentation. However, if we knew the number, character, and extent of the claims which the Department considers as prima facie well founded I think we could effectively use such information. Conceivably with such information the Turks might be responsive to suggestions for the payment of a lump sum or for an agreement similar to the one we made with the British in 1910.[38] There is even the possibility that the Turks might offer a proposal just like that suggested by the Department in its telegram under

[38] *Foreign Relations*, 1911, p. 266.

reference. In giving instructions on this point it would be convenient to have reference made to Turlington's memoranda numbered 2 and 47.[89]

(*c*) I believe the difficulty with respect to the presentation of claims of persons of Turkish origin who have become naturalized American citizens can be passed over without a formal agreement. It may be necessary, however, for us to give informal assurances either that we will not present such claims or that we will not press them if we do present them.

4. We are waiting for instructions before making contact with the Turkish experts.

BRISTOL

467.11 W 89/26 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *September 23, 1923—noon.*

[Received 5:05 p.m.]

249. My telegram 240 of September 15. Mustafa Cherif is now here. He has not, however, communicated with the High Commission. I respectfully request that I be at once authorized to get in touch with the Turkish experts.

BRISTOL

467.11 W 89/26 : Telegram

The Acting Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *September 25, 1923—5 p.m.*

173. Your telegram 249 of September 23. Authority is granted for you to resume negotiations to seek an arrangement for the settling of claims in accordance with the plans which have been approved in our 149, August 8, 2 p.m., via Lausanne or in the various instructions which were sent to the Special Mission at Lausanne.

An answer will soon be sent to your telegram 240 of September 15.

PHILLIPS

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[89] Not printed.

467.11 W 89/25 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *September 29, 1923—8 p.m.*

181. Your telegram 240 of September 15.

1. Your first point. After the resumption of informal discussions, as contemplated in our telegram 173 of September 25, possibly you will be able to give more detailed indication as to the information regarding our claims which the Turks desire. The Department calls your attention to the fact that it is not possible for it to examine into the merit of claims before all the evidence has been presented. There are many claimants who are not able to do this as yet. This is particularly the case where the losses for which claims are being made were suffered in the interior of Turkey. Probably it would take a year to examine claims on their merit, to develop them to completion, and to assemble the evidence which is necessary. Also, it has not been the custom to present claims before some machinery has been provided for their consideration. Turlington took with him memoranda [40] which should supply the necessary general information regarding the extent of claims which had been submitted prior to last April. We will forward soon a supplementary list.

2. Your paragraph 3 (*a*). Should the Turks agree formally to the procedure which we indicated in our paragraph 6, telegram 149, August 8, 2 p. m., via Lausanne, the Department will forward to you the claims which have already been presented and completely developed as soon as the situation permits. We trust, however, that an arrangement for the consideration of such claims can be concluded without awaiting the receipt of the claims. Should this not be done it might involve considerable delay.

3. Your paragraph 3(*b*). As many important claims have not been completely developed by the claimants the Department is not able to give you full information regarding the number, character, and extent of the claims, which it considers well founded. Confidential data will be forwarded, however, as soon as possible to supplement Turlington's memoranda.

4. Your suggestion that it is desirable to avoid, if possible, raising the issue of the position of claims of persons of Ottoman origin who have become naturalized American citizens meets the Department's

[40] Not printed.

approval. The Department has examined with regard to nationality the claims presented and is prepared not to press the following classes of claims by naturalized Americans of Ottoman origin:

(1) Claims presented by persons who left their native land when it was at war;
(2) Claims of persons who since being naturalized have resided more than two years in Turkey and who cannot, in accordance with the rules of the Department promulgated for that purpose overcome the presumption that they have expatriated themselves;
(3) Claims presented for damages to real property which it is alleged has been inherited but which the claimants could not inherit under Turkish law;
(4) Claims arising from the death of Ottoman relatives.

The Department would be inclined to submit all claims which have a just basis presented by native American citizens, by naturalized American citizens born in other countries than Turkey, by naturalized American citizens of Ottoman origin where the claims are not in one of the classes listed above, or by companies and associations in which the American interest is substantial.

HUGHES

467.11 W 89/32 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 18, 1923—11 a.m.*
[Received 4:15 p.m.]

271. Your telegram 181 of September 29. I am informed by Adnan Bey that he has been given full powers to negotiate with respect to American claims. He accepts my suggestion to him of September 3 that the experts engage in informal exploratory conversations before the formal negotiations begin. The Turks have named as their experts Munir Bey who was at the Lausanne Conference and Ibrahim Bey, financial inspector of the vilayet of Constantinople and former director general of customs. Our experts will be Shaw and Turlington. The experts will hold their first meeting on October 22 at the Sublime Porte. The Department may wish to give me full powers to negotiate with respect to claims and also to send me separate full powers to use in negotiations regarding naturalization if occasion arises.

BRISTOL

467.11 W 89/32 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

WASHINGTON, *October 27, 1923—4 p.m.*

200. Your 271 October 18, 11 a.m.

For Bristol.

Under date of October 24, by direction of the President, you were granted two full powers to negotiate, conclude and sign with Turkey (1) a Claims Convention (2) a Naturalization Convention.

These documents[41] are being forwarded by mail. Should it become necessary their contents can be telegraphed. It is understood, of course, that no action will be taken under these full powers without the Department's definite instruction.

HUGHES

467.11 W 89/37 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *November 8, 1923—11 a.m.*

[Received 2 p.m.]

293. Your telegram 205 of November 5.[41]

1. Plenipotentiaries and experts held their first plenary meeting yesterday. The experts had previously held four joint meetings, and I had had two informal conversations with Adnan Bey. Exploration of the subject has been completed.

2. The Turks state that they are willing to undertake a benevolent examination of concrete claims which may be submitted to them and that in principle they are not opposed to the submission of certain classes of claims to arbitration. They contend that as one of the successor states of the former Ottoman Empire, Turkey is confronted with many claims arising from war or insurrection for which it is unable to accept responsibility. It also cannot consider claims of persons who in its view are nationals of Turkey. The Turks offer a choice of the two following proposals:

(*a*) That we agree that claimants for requisitions shall present their receipts to local authorities to be settled, that claims for losses

[41] Not printed.

caused by the acts of private individuals, in groups or separately, or by the acts of officials done in their private capacity be brought before Turkish tribunals, and that other claims be handled through the regular channels of diplomacy.

(*b*) That negotiations be adjourned with an agreement to reopen them within six months after the treaties have been ratified.

3. A procedure has been discussed with the Turks the same in substance as that suggested in your telegram 149 via Lausanne August 8, 2 p. m. This was brought up as a possibility, not as a proposition. The Turks insist that claims growing out of war or insurrection must be excluded but are disposed to agree to the examination of other claims immediately by the delegates without commitment. Our suggestion of agreement by an exchange of notes not requiring ratification quieted formal objections to immediate examination on the ground that it would be difficult to effect part of the treaty settlement before treaty ratification and while diplomatic relations were interrupted. The Turks suggested that the examination contemplated would be practically a continuation of our present discussions and that the presentation of perhaps 20 typical claims would best advance the object of the examination.

4. We have urged repeatedly that it is desirable to have all claims submitted to arbitration. We feel that eventually our arguments may have good effect even if they do not at present. Probably the Turks would agree now to have claims other than those growing out of war or insurrection and those of naturalized Americans of Ottoman origin submitted to arbitration. I apprehend, however, that in connection with such an agreement they would not consent to reserve the excluded classes of claims to be discussed later.

5. I rather think the best course is to press for an informal examination by the delegates and to try to induce the Turks to give up their insistence that certain classes of claims be excluded from such an examination. In such an examination, of course, the American delegate would meet with the same objections which are now offered to the classes of claims indicated. His position would, however, be strengthened by the details of specific cases of loss and by the arguments upon the larger questions of principle involved which the Department could furnish. The Department may rest assured that I shall not neglect any opportunity to secure a better agreement and that I will not lose sight of the importance of preventing unnecessary delay.

6. Comments from the Department as soon as possible would be appreciated.

BRISTOL

467.11 W 89/37 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *November 17, 1923—4 p.m.*

214. 1. From your telegram 293 of November 8, it appears that the Turkish negotiators are taking the same line of argument which at Lausanne prevented the reaching of an agreement on claims. If we accepted the contention that Turkey is not to be held responsible for claims arising from war and insurrection, it might open the door to the elimination of many claims which are well founded. Furthermore, there does not seem to be any satisfactory basis for settlement or even for further negotiations in the suggestion that claimants for requisitions should submit their receipts to local authorities for settlement, that Turkish tribunals should handle the cases of loss arising from acts of private individuals, and that the other claims should be dealt with through the regular channels of diplomacy.

2. The only hopeful element in the situation is your statement that the Turks are willing to undertake the benevolent examination of specific claims which may be submitted and that in principle they are not opposed to the submission of certain classes of claims to arbitration. The desirable procedure would appear to be to follow up these points and try to induce the Turks to give up their attempt to qualify their consent by insisting that certain broad classes of claims be excluded.

3. The Department finds it difficult to understand why the Turks object to the submission of claims to impartial arbitration. Turkey has given a good deal of emphasis to her desire to deal with other nations in accord with the recognized principles of international law and on a basis of perfect equality. Upon this basis Turkey has negotiated with the Allies and the United States. However, Turkey seems to expect quite a different test to be applied now that the question arises as to how she will meet her own obligations. In view of the fact that the principle that international claims should be submitted to an impartial arbitration is so generally accepted and practiced, the Turkish attitude on this question is an unwelcome and an almost unique exception. The United States, as you know, recently has negotiated agreements with Germany and Mexico for the arbitration of claims.

4. The American Government does not wish to press claims for which the Turkish Government could not be held justly responsible. The Department also appreciates the difficult condition of Turkish finances and would be willing to enter into a liberal agreement with the Turkish Government concerning the time for paying the awards.

5. Indicating that you are acting under instructions from the Department you should present the views set forth in the two preceding paragraphs and learn the attitude of the Turkish negotiators in further detail toward the submission to impartial arbitration of all claims questions, including (*a*) classes of claims, (*b*) the merits of specific claims, (*c*) the extent to which Turkey is liable, in view of the territory which she has lost. You should also ask whether the Turks wish to make any suggestions regarding the form of arbitration or the manner in which an arbitrator might possibly be selected.

6. The Department thinks that the questions at issue might be narrowed down by action along the above lines. More and more the Department is becoming convinced that it will be useless to prolong the discussion of claims unless we can obtain some effective plan for arbitration. It is realized, however, that you are facing peculiar difficulties in negotiating at the present time due to the sensitiveness of the Turks and to the fact that they are ignorant of our claims and possibly exaggerate them. The Department would therefore hesitate to believe that the mature and settled views of the Turks on this question are represented by their present attitude. The Department feels that the Turks would be prepared to take a more reasonable attitude under more normal conditions. For this reason, the Department would be willing to postpone the negotiations if the Turks will agree, by an exchange of letters, to have a joint American-Turkish committee set up, within six months, which would examine the claims which the United States or Turkey should present and support. This committee would settle claims upon which they might agree and in addition would decide as to the classes of claims which should be arbitrated and regarding the form of such arbitration. Substantially this is the procedure which the Department suggested in its telegram via Lausanne, 149 of August 8, 2 p. m., and to which you referred in the third paragraph of your 293 of November 8.

7. Since the Turks would not be bound to specific categories by such a communication, it would not be reasonable for them to insist that the American Government should in this communication agree to drop classes of claims, and we would not consent to this.

8. The Department would be inclined to end the negotiations in case the Turks refuse both the submission of all points at issue to arbitration and this exchange of communications. However, any recommendations you may submit will be given careful consideration. Of course it is not at all likely that the treaty with Turkey would be submitted to the Senate if negotiations should thus be broken off.

9. If you see no serious objection to the procedure outlined in our paragraph 6 above and if you feel that at present no better solution

is possible, the Department would like to have you draft a possible letter to be exchanged, in the light of your recent talks with the Turkish representatives, and telegraph it to the Department for consideration.

10. You should, in dealing with this whole question, review the earlier telegrams of the Department, both to Constantinople and to the Special Mission at Lausanne. The various questions at issue have been so fully discussed in these telegrams that it would serve little purpose to give any detailed review of the various suggestions by the Turks, which are set forth in your 293 of November 8.

HUGHES

711.672/225a : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *December 3, 1923—5 p.m.*

223. 1. Congress has assembled and questions relating to the treaty with Turkey may soon be raised. It is therefore important that the Department be informed as soon as possible with respect to your progress regarding the settlement of claims and likewise concerning the prospect of obtaining an agreement on the subject of naturalization.

2. It scarcely needs to be emphasized that the consideration of the treaty by the Senate would be materially influenced by the settlement of these issues. Also the Department does not now intend to send the treaty to the Senate before a decision on the claims question has been reached, as you have been informed already.

3. Possibly the Turks do not realize how serious the present situation is with respect to American-Turkish relations. You should not lose any opportunity to make this clear if they do not realize it. In certain quarters here there is a strong demand that we refuse to deal at all with the Turks, regardless of the effect such a policy would have upon our existing interests in Turkey. The Department is hesitant to believe that the present authorities in Turkey would wish to take the responsibility of forcing us to follow such a course. You will appreciate that it will create a most difficult situation if agreements are not reached which will allow the sending of the treaty to the Senate, especially in case no solution is reached by the time the treaty between the Turks and the Allies is ratified.

4. Please send complete report promptly on the above.

. . . . . .

HUGHES

711.672/226 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 6, 1923—5 p.m.*
[Received 7:51 p.m.]

318. Your telegram 223 of December 3. Although recently the necessity of consulting Angora has caused some delay, our negotiations regarding claims are proceeding satisfactorily. There has been tangible progress, and I think that in the near future an agreement can be reached along the lines of a commission to examine.

It is my conviction that it would not be wise even to sound out the Turks regarding naturalization before a claims agreement is actually concluded and signed. I shall report soon my views with respect to naturalization, in the light of existing conditions in Turkey.

The lack of realization by the Turks of the serious condition of relations between America and Turkey is not due to any failure of mine in statement or argument. On many occasions in the past this situation has been clearly explained to them but never more frequently or with greater emphasis than during our negotiations over claims.

Turkey would like to put her relations with the United States on a regular basis, but this desire will not be very effective or survive any considerable strain as a bargaining point in negotiations seriously involving Turkish susceptibilities. . . .

. . . . . .

BRISTOL

711.672/226 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *December 8, 1923—4 p.m.*

224. The Department is pleased to learn from your telegram 318 of December 6 that satisfactory progress is being made in claims negotiations. Although doubtless you appreciate the importance of arriving at an agreement as soon as possible, your attention is particularly invited to the following considerations:

1. The Department would prefer to submit the treaty to the Senate early in the present session rather than to try late in the spring to secure its ratification when the likelihood of prompt action might be

lessened by the possibility of early adjournment and the pressure of business.

2. It is important that we should be able to regularize our relations with Turkey when the Allies do the same, and we have no reason to doubt that in France, Great Britain, and Italy the Allied treaty with Turkey will soon be sent to the Parliaments.

3. Attacks in the Senate against the treaty, even before its formal submission for ratification, might be caused by delay in arriving at a claims agreement.

4. It might also be hard to explain delay in sending the treaty to the Senate for ratification without giving detailed information about the present negotiations and telling of the reluctance of the Turks to arrive at any reasonable settlement on this important subject.

Report any information available as to the plans of the Turks for submitting the treaty to their National Assembly. Is there any likelihood that the Assembly will adjourn in the immediate future? Telegraph date for signature by the Turks of the English and Turkish texts.

The Department has noted with interest, in connection with the general subject of claims arbitration, the statement which Ismet Pasha made during the first phase of the Lausanne Conference, that Turkey had resorted to arbitration to settle the dispute with the Soviet Government, regarding the payment of Soviet claims, and adding that, doubtless, for nations to resort to arbitration to settle disputes between them is not at all incompatible with their sovereign rights. See British publication: Turkey No. 1 (1923), Cmd. 1814, p. 513.

HUGHES

467.11 W 89/39 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 10, 1923—6 p.m.*

[Received 11 : 10 p.m.]

325. Your telegram 224 of December 8.

1. Today, as a counterproposal to a plan which was discussed previously, Adnan Bey presented to me the following outline of an arrangement which he is ready to recommend that the Turkish Government accept:

The representatives of the United States and Turkey, acting in conformity with the exchange of letters on August 6, at Lausanne,[43]

[43] *Ante*, p. 1143.

reserving for later discussion the subject of the reciprocal claims of American and Turkish nationals, have engaged in discussions at Constantinople since October 10 and have accepted the following arrangement:

A commission will be set up composed of four members, two named by each Government. This commission will meet at Constantinople directly after the treaty between the United States and Turkey, signed August 6, at Lausanne, is ratified. It will examine claims presented by either Government within six months of its constitution, with a view of determining the solutions which should be given them. Documents establishing the character, origin, and justification of each claim must be included in the dossiers of the claims.

The commission's proceedings will be secret, and no part of them will be made public without the agreement of the American and Turkish Governments.

2. An arrangement such as described above, although certain details are omitted which might be desirable, would seem to be substantially like that which the Department gave me authority to make by an exchange of letters. . . . I believe that if it is the wish of the Department I could have the period for the presentation of claims extended to one year after ratifications of the treaty are exchanged and also have the commission set up six months after ratifications are exchanged instead of directly thereafter.

3. Adnan Bey is not willing that any special mention of the possibility that certain claims may be arbitrated be made in the arrangement. . . . He thinks that the proposed commission may recommend that certain claims be arbitrated and that such a recommendation may be accepted by the Turkish Government.

4. I recommend that the Department authorize me to sign the arrangement which Adnan Bey has proposed, with a revision extending to one year the time within which claims may be presented. I also recommend that the number of members of the commission be reduced to one for each Government, unless the Turks insist that they have two representatives. Instructions are requested.

BRISTOL

467.11 W 89/39 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *December 13, 1923—4 p. m.*

227. Your telegram 325 of December 10.

1. Department prefers that arrangement take the form of an exchange of letters rather than of a formal document which both

parties would sign. Since the latter procedure would resemble a claims agreement in form but not in substance, it might give the impression that a claims agreement had been reached, an impression which would not stand analysis. Another point is that there is nothing in the proposed arrangement upon which Senate action would be required, and the Department would not wish to have a form adopted which would give the impression that such action was required.

2. The Department would prefer to have the organization to be established designated a "committee" instead of a "commission." In view of the limited powers which the American and Turkish representatives would have under the proposed arrangement the term "commission" is not deemed appropriate.

3. Considering the length of time which it will take to prepare the claims in detail, the Department believes it necessary that provision be made for the setting up of the committee within six months after the ratifications of the treaty are exchanged and for the submission to it of all claims within one year after it is set up, rather than within the periods suggested in the arrangement, as outlined in your telegram under reference.

4. The Department cannot concur in the final paragraph of part 1 of your telegram. Naturally it would not wish by untimely publicity to handicap the future discussions of the claims committee, and it would not be inclined to give publicity while the negotiations were in progress, but any agreement that secrecy be preserved, unless and until the Turks should withdraw this restriction, would be open to serious misconstruction in the United States. Also it might lead to embarrassment should Turkey under the proposed secrecy agreement oppose the desire of the American Government to make its attitude on the question of claims clear, even in the event of the failure of the preliminary negotiations. The secrecy provision would not find favor with public opinion in this country and might even seriously affect the ratification of our treaty with Turkey. It is necessary to have that provision eliminated.

5. The suggestion that each Government appoint two members of the committee is favored by the Department.

The Department is willing to authorize an arrangement along the lines proposed with the changes suggested above.

Use every possible means to expedite negotiations and submit revised draft of agreement to Department for final approval before signing.

HUGHES

467.11 W 89/40 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 16, 1923—3 p.m.*
[Received 10:30 p.m.]

329. Your telegram 227 of December 13.

1. Adnan Bey accepts following if it meets approval from Angora:

(*a*) That claims body be designated as a committee.

(*b*) That it be set up at once after treaty ratifications are exchanged, with one year additional, within which complete dossiers may be presented, or that it be established 6 months after treaty ratifications are exchanged and 6 more months be allowed within which complete dossiers may be submitted.

(*c*) That provision regarding secrecy be eliminated.

2. Adnan Bey states that as he has already recommended to Angora that the period for the presentation for claims be extended from 6 to 12 months after ratifications are exchanged, he cannot hope that he will be authorized to have the time still further extended. Adnan adds that a year after the exchange of ratifications should give time enough, as it will necessarily be several months before the exchange of ratifications can be considered. There is a bare possibility that he may consent that the committee receive, within a year after it is set up, evidence concerning claims which shall have been presented within 6 months after its establishment, but which have not been fully documented within that time. I recommend that I be authorized to concede this point in case he remains firm.

3. Adnan Bey prefers that the arrangement take the form of an agreement signed by both parties. I believe, however, that after the experts meet tomorrow he may agree to have an exchange of notes.

4. I urgently request instructions.

BRISTOL

467.11 W 89/42 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *December 20, 1923—5 p.m.*

234. You are authorized to sign communication quoted in your telegram 332 of December 19,[44] it being understood that Adnan

[44] Not printed; the text submitted for approval in telegram 332 was substantially the same as the translation of the letter of Dec. 24 from Admiral Bristol to Adnan Bey, printed p. 1190.

Bey will address a communication to you, *mutatis mutandis*, like the one you address to him.

HUGHES

467.11 W 89/52

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 1070 CONSTANTINOPLE, *January 4, 1924.*
[Received January 21.]

SIR: I have the honor to transmit herewith for the files of the Department the following documents:

1. Text of my note of December 24, 1923, to Dr. Adnan Bey, Delegate of the Ministry of Foreign Affairs of the Republic of Turkey, communicating to him the approval by the Government of the United States of the arrangement, set forth in the note, for the examination of claims by a mixed committee to be established six months after the exchange of the ratifications of the treaty of general relations signed at Lausanne August 6, 1923.

2. Original note, date December 24, 1923, addressed to me by Dr. Adnan Bey, communicating to me his Government's approval of the arrangement set forth in my note above mentioned, as well as in his note.

3. Full powers, presented to me by Dr. Adnan Bey, authorizing him to negotiate, conclude, and sign with the Delegate of the United States, *ad referendum*, any agreement, understanding, or arrangement regarding claims.[45]

In this connection I may state that I delivered to Dr. Adnan Bey, at his request, the full powers issued to me by the President for the negotiation, conclusion, and signature of a convention regarding claims. I informed Dr. Adnan Bey that the delivery of the full powers did not appear to me to be necessary in view of the form of the agreement which we had effected, but as I perceived no substantial objection to acceding to his request, I gave him my full powers in exchange for his.

I have [etc.] MARK L. BRISTOL

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[45] Not printed.

[Enclosure 1—Translation]

The High Commissioner at Constantinople (Bristol) to the Delegate at Constantinople of the Turkish Ministry of Foreign Affairs (Adnan)

CONSTANTINOPLE, *December 24, 1923.*

EXCELLENCY: Pursuant to the discussions which have been held at Constantinople since October 10, 1923, in conformity with the letters exchanged at Lausanne August 6, 1923, with a view to reserving for a subsequent discussion the question of the reciprocal claims of the nationals of the United States and of Turkey, I have the honor to inform you that I am authorized by my Government to convey to Your Excellency the following:

My Government is in accord with the Government of the Turkish Republic for the designation of two representatives as members of a committee which will meet at Constantinople six months after the exchange of the ratifications of the treaty signed at Lausanne August 6, 1923, concerning the general relations between the United States and Turkey. This committee will proceed, with a view to determining the solutions which should be given them, to the examination of the claims presented by either Government within a period of six months from its constitution. The dossiers of the claims must contain the documents establishing the nature, the origin, and the justification of each claim.

Documents not accompanying the claims presented within the period of six months provided for in the preceding paragraph and relating to the said claims must be communicated to the committee at the latest within a period of one year from its constitution.

I shall be grateful if Your Excellency will be so good as to convey to me the confirmation of this arrangement.

Accept [etc.] MARK L. BRISTOL

[Enclosure 2—Translation]

The Delegate at Constantinople of the Turkish Ministry of Foreign Affairs (Adnan) to the High Commissioner at Constantinople (Bristol)

CONSTANTINOPLE, *December 24, 1923.*

EXCELLENCY: I have had the honor to receive the note which Your Excellency was good enough to send me December 24th, 1923, concerning the question of the reciprocal claims of the nationals of Turkey and of the United States, a question which was reserved for a subsequent discussion by virtue of the letters exchanged at Lausanne August 6th, 1923.

I am authorized by my Government to inform Your Excellency that it is in accord with the Government of the United States for the designation for its part of two representatives as members of a committee which will meet at Constantinople six months after the exchange of the ratifications of the treaty signed at Lausanne August 6, 1923, concerning the general relations between Turkey and the United States. This committee will proceed with a view to determining the solutions which should be given them, to the examination of the claims presented by either government within a period of six months from its constitution. The dossiers of the claims must contain the documents establishing the nature, the origin, and the justification of each claim.

Documents not accompanying the claims presented within the period of six months provided for in the preceding paragraph and relating to the said claims must be communicated to the committee at the latest within a period of one year from its constitution.

Accept [etc.] DR. ADNAN

DECISION BY THE DEPARTMENT OF STATE TO POSTPONE NEGOTIATIONS FOR A NATURALIZATION TREATY WITH TURKEY

867.111/139 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *August 6, 1923—10 a.m.*

[Received 2:33 p.m.]

202. Several naturalized Americans of Ottoman origin who arrived recently from the United States on Steamer *Canada*, with their passports properly visaed by Spanish Consul,[46] New York City, were refused permission to land and were [*are?*] now threatened with deportation. In conversation Adnan Bey informed me that no more naturalized citizens of Ottoman origin would be permitted to enter Turkey and that orders will be sent Spanish consul in New York to refuse visas to this class of persons. Unless, therefore, Department wishes to make an issue of this question, I suggest that no passports be issued to persons of Ottoman origin for return to Turkey. I will continue opposition in every practicable way possible to this Turkish attitude toward admission of these naturalized Americans.

BRISTOL

[46] The Spanish Government represented Turkish interests in the United States during the interruption of regular diplomatic relations between the United States and Turkey.

867.111/140 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *August 6, 1923—6 p.m.*
[Received August 6—1:59 p.m.]

203. My telegram number 202, August 2[6], 10 a. m. As result of my representations Adnan Bey informed me this morning that naturalized Americans of Hellenic (non-Ottoman) origin, as well as naturalized Americans of Russian-Armenian origin, will be permitted to enter Turkey freely. He assured me that should naturalized Americans of Ottoman origin arrive Turkey they will not be arrested but will be requested by the police to leave the country, and he further assured me that I would be notified in each case.

BRISTOL

867.111/140 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

WASHINGTON, *August 21, 1923—6 p.m.*

157. Your 202 and 203, August 6, 10 a.m. and 6 p.m.

Department is gratified that progress has been made in the treatment of naturalized Americans born in Turkey, but cannot make the distinction between classes of citizens implied by your suggestion that no passports be issued to persons of Ottoman origin desiring to return to Turkey. The *Revised Statutes of the United States* distinctly provide in section 2000 as follows: "All naturalized citizens of the United States, while in foreign countries, are entitled to, and shall receive from this Government, the same protection of persons and property which is accorded to native-born citizens." The most that can be done is to warn such travelers, when issuing passports to them, of present Turkish regulations and of the fact that naturalized American citizens who evade those regulations or conceal their nationality for the purpose of travel in Turkey cannot expect full American protection.

It is not desired, however, that you communicate this information to the Turkish authorities. You should continue to make it clear to them that under American law one citizen has as good a right to protection from this Government as another. Further instructions will be sent before your visit to Angora.

HUGHES

711.674/30 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *August 24, 1923—4 p.m.*
[Received 8:05 p.m.]

219. Your telegram August 21, 6 p.m. I have kept in mind constantly in practice as well as in theory the legal prohibition against making any distinction between different classes of American citizens. No pains are spared by my staff and the delegates of the High Commission in their efforts to settle the various questions which involve naturalized citizens. These efforts will not be relaxed. It was my intention in telegrams 202 and 203 of August 6 simply to invite the attention of the Department to the difficulties which this problem now presents in Turkey. I suggest that it is advisable to postpone negotiations for a treaty with Turkey on the subject of naturalization until our principal treaty has gone into effect and normal consular and diplomatic relations have been resumed. The entering into effect of our treaties at the earliest moment possible is so clearly essential for our interests in Turkey that in my opinion we should make every effort to avoid negotiations or incidents which might endanger or delay ratification. I also believe that once regular relations between the United States and Turkey have been established, there will be a better chance of securing satisfaction from the Turks on the question of naturalization. I am elaborating my views in a despatch.

BRISTOL

711.674/30 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *September 29, 1923—5 p.m.*

178. Your telegram 219 of August 24. While realizing the force of your suggestion that we should make every effort to avoid anything which would endanger or delay the ratification of the treaty, the Department desires to invite your attention to the following considerations:

1. In 1874 a naturalization treaty between the United States and Turkey was actually signed, and it was ratified by both countries. It was, however, never proclaimed. See Moore, J. B.: *A Digest of International Law*, III, 707.

2. A clause on naturalization came near being included in our Lausanne treaty, and we gave the Turks to understand that before long negotiations would be resumed. See our telegram 236 of July 13 to the Special Mission at Lausanne.[47]

3. Already the Department is feeling pressure on the question of naturalization, and this undoubtedly will come to the front when the treaties go to the Senate. The Department would be better able to answer those who may attack the treaty on this point if it were possible before then to reach a *modus vivendi* or even to state that negotiations were continuing.

4. The Department believes it to be debatable that after relations are resumed the Turks will be more favorably disposed. They may not consider it any longer worth while once recognition is given to make further efforts to meet our views.

5. The Department feels that on account of your experience and personal relationships you might be able in friendly conversations at Angora to remove misunderstandings or even to reach a workable solution.

In starting conversations you should not only refer to our own Lausanne negotiations but also to the discussions last winter which took place in the subcommission on nationalities. At that time Montagna pointed out that the Turkish laws on naturalization were inherited from the old empire, that apparently they were drawn up to meet the situation under a regime of capitulations and a system by which large bodies of protégés were created by certain foreign missions. Montagna called attention to the fact that an entirely new situation had arisen with the disappearance of the empire and of capitulations and suggested that a nation which was anxious to put its legislation in line with that of other modern nations might well take note of this changed condition. Montagna suggested in this connection that the Turks might meet certain difficulties by giving their retroactive and general consent to the bona fide naturalization in foreign countries of subjects of Turkey. Accordingly the Turks informally intimated that if the capitulations questions were settled in accordance with their wishes, they might consider changing their law of nationality.

You might then discreetly intimate that as the old regime has passed away and capitulations have been abolished by mutual consent, the American Government does not see any essential reason why there should be more difficulty in settling naturalization questions with Turkey than with other European countries. The United States has naturalization treaties with most of the Latin American nations and with Great Britain, Belgium, Norway, Sweden, Denmark, and

[47] Not printed.

Portugal. We had treaties with the German States and Austria-Hungary prior to the World War. We are negotiating at present with Poland, Czechoslovakia, Bulgaria, and Yugoslavia. As yet we have no such conventions with France, Greece, or Italy. We have, however, an arrangement with France concerning Syria, by which the special status of persons born in Syria but entitled to the protection of the United States under American law is recognized by the local authorities. However, in such countries as France, Italy, and Greece, from which a considerable proportion of our naturalized citizens come, the liability to military service is the only difficulty which arises. The American Government has always taken a reasonable attitude on this issue and it would be disposed to do so in any treaty with Turkey regarding naturalization. The American Government does not insist that naturalized citizens be immune from punishment if, prior to acquiring a residence in the United States or becoming naturalized, they had violated the military laws of their country of origin.

Furthermore, the various provisions of the naturalization laws should be explained, especially those regarding naturalized citizens who again take up residence in the country from which they came. You should emphasize that we discourage in every possible way the acquisition of citizenship merely as a temporary convenience. Finally, you should stress the point that this Government does not give retroactive effect to naturalization. One cannot, therefore, acquire American citizenship and on the basis of such citizenship claim redress through this Government for losses sustained before he was naturalized.

In suggesting these considerations the Department of course has no wish to question the sovereign right to keep out dangerous aliens or to place you in the position of intervening in the domestic legislation of Turkey. The American Government does not feel that all naturalized American citizens of Ottoman origin can be properly assumed to be dangerous and that they should therefore be excluded from Turkey. In this connection see our telegram 194 of June 23 to Lausanne [43] and other telegrams.

For the reasons given above, especially those set forth in point 5, the Department is convinced that the matter might be presented by you informally and personally to the Turkish authorities in such a way as to take advantage of their wish to have Turkey considered as a modern and progressive nation. Thus the way might be prepared for disposing of this question which is unnecessarily troublesome.

HUGHES

[43] *Ante*, p. 1094.

711.674/36 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 31, 1923—2 p.m.*
[Received 11:55 p.m.]

340. Now that the claims issue is out of the way[49] I offer the following comments and recommendations regarding naturalization negotiations.[50]

1. I recommend the postponement of these negotiations. In order that they be successful there must be careful preliminary explorations. Moreover, the initiation and pendency of the naturalization negotiations might create further difficulties and delays in the resumption of diplomatic relations and in the ratification of the treaties.

2. The best course in my opinion is to begin at once with the greatest caution to develop as far as possible the attitude of the existing government of Turkey regarding the treatment of naturalized Americans of Ottoman origin in Turkey, paying special attention to existing legislation and that which may be passed. We should learn more definitely by such exploration why the Turks object to having naturalized Americans of Ottoman origin return to Turkey and also what the attitude of the Turks is with respect to negotiating a naturalization treaty . . .

3. Since the collapse of the Greek forces at Smyrna, we have handled questions regarding naturalized Americans of Ottoman origin as they have arisen, but under constantly changing conditions and with varying degrees of success. The difficulty of solving these problems has steadily increased. It was thought best during the process of the claims negotiations not to press questions regarding naturalization except when it was absolutely necessary. It would be my idea in making the suggested exploration to take up individual cases with a view to reaching a satisfactory adjustment in each case without bringing the matter to an issue. At the same time we would obtain all the information possible on the subject of naturalization.

4. In the present stage of the development of the Turkish Government there is no doubt that it would be impossible to negotiate

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[49] For notes regarding the settlement of claims, exchanged at Constantinople Dec. 24, 1923, see pp. 1190–1191.

[50] On Oct. 24, 1923, the High Commissioner had been granted full powers to negotiate a naturalization convention with Turkey; see telegram no. 200, Oct. 27, p. 1179.

a satisfactory treaty on naturalization without patience and persistency, and it would take considerable time. It took two and a half months to reach an agreement on claims although negotiations were expedited as much as possible and the Turkish delegates showed the greatest good will in finding a mutually satisfactory solution. Yet this matter was simple compared to that of negotiating a treaty on naturalization.

5. If a convention on naturalization was being negotiated while the treaty of August 6 was under consideration in the Senate, there is no doubt that questions which would come up with respect to naturalized citizens might readily be deemed reason for a delay in consenting to the treaty, until the completion of the convention on naturalization. Any objections raised in the Senate regarding the treatment of naturalized Americans can be met . . . by referring to the statement which Ismet Pasha made at Lausanne as to the desire to negotiate a treaty on naturalization at some future time and to the success which we have had in handling cases and which I hope to achieve in the future.

6. In the procedure which I propose it is possible that the good will of the Turkish Government might be developed, so that it would give due consideration to the question of naturalization and to the negotiation of a treaty on the subject. The Turks seem at present unreasonably hostile toward all questions concerning naturalized citizens of Ottoman origin. There were certain objections on the part of the Government of the former Ottoman Empire to recognizing naturalized Americans living under Turkish authority which should not and do not exist with the form of government which Turkey now has. This refers especially to the rights which citizens had under the regime of capitulations. . . . Another thing which makes the Turks just now unreasonably hostile to these former Armenian and Greek subjects of Turkey is their propaganda in America. Furthermore the Turks are afraid that the business of the country might again be monopolized by these returning Armenians and Greeks to the exclusion of the Turks.

7. The energies of the present Turkish Government, or any other government which may replace it, are going to be absorbed by domestic matters. Its leaders will doubtless limit their commitments and activities in foreign affairs to the minimum which they consider necessary, in order to regularize their relations with foreign countries and assure their freedom from any outside interference. Evidently they wish for the friendship of all nations, especially of the United States; but, in my opinion, they are not prepared to make serious sacrifices for the purpose of gaining such friendship. They

are so far from considering the consent of foreign countries to the abolition of capitulations as a concession, that they would look upon the denial of such consent as distinctly a grievance. I do not now see any argument which would be effective in influencing the Turks to negotiate a convention on naturalization. I hope, however, while exploring the question, that I will be able to deal with individual cases satisfactorily as they arise, and even to effect a *modus vivendi*, pending the negotiation of a regular convention.

BRISTOL

711.674/36 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *January 10, 1924—5 p.m.*

9. Your telegram 340 of December 31. Your recommendation approved. You should keep in mind, however, that the question is one in which a large body of our citizens is interested directly or indirectly. It would be desirable if possible, therefore, for you to arrange the *modus vivendi* to which you referred in your final sentence.

HUGHES

GRANT OF A CONCESSION TO THE OTTOMAN-AMERICAN DEVELOPMENT COMPANY (CHESTER PROJECT) AND THE FAILURE OF THE COMPANY TO OBTAIN SUBSTANTIAL FINANCIAL BACKING[51]

890g.6363/199a

The Secretary of State to the Acting High Commissioner at Constantinople (Dolbeare)

No. 294 WASHINGTON, *January 15, 1923.*

SIR:

. . . . . .

. . . your attention is called to the Department's telegram No. 282 of December 7[52] instructing you that in view of the evidence of substantial American interest in the Ottoman-American Development Company you could give it support without, of course, taking part in the negotiations of this Company.

For your confidential information, the Department desires to inform you that in view of the fact that there are competing Ameri-

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[51] For previous correspondence regarding the Chester project, see *Foreign Relations*, 1922, vol. II, pp. 966 ff.

[52] *Ibid.*, p. 980.

can concerns which may be interested in endeavoring to secure the same or similar rights in Turkish or former Turkish territory, it is imperative that the utmost circumspection and care be observed to avoid any action which might give the erroneous impression that this Government is particularly interested in the success of any one American concern as contrasted with any other. It desires that the field should be open to American firms which may be interested. If rights are legally acquired from a recognized authority it may be possible for this Government to accord more definite support but during the process of negotiation, while giving appropriate diplomatic assistance to American interests you should avoid taking any direct part in the negotiations or indicating a partiality or preference for any particular interest.

This situation may be made clearer to you if I add that during the past week the representative of the group of American oil companies, whose negotiations I outlined in my despatch No. 232 of September 1, 1922,[53] requested the Department's intervention through the Ambassador in London to secure the 20% American participation in the Turkish Petroleum Company. To this the Department replied that while it was interested in maintaining the national principle of the Open Door it could not take part in bringing about a particular business arrangement. Copies of this correspondence are enclosed.[53]

Shortly after this Mr. Samuel Untermyer called at the Department to state that he and other American business men were taking a direct interest in the support of the claims of the heirs of Abdul Hamid to oil and other rights in Turkey and Mesopotamia. While he did not then request definite support he stated that he would later present his views to the Department in further detail. Shortly after Mr. Untermyer's call, General Goethals, Mr. Barnard, and Admiral Rousseau described to the Department their interests in securing the ratifications of the Chester project as indicated in the enclosed papers.[53]

In dealing with these three specific proposals the Department has made it clear that it would accord proper diplomatic support to American citizens and interests but that it played no favorites and could grant no special privileges to any one American company which it would deny to another.

. . . . . .

A copy of this instruction is being sent the American Mission at Lausanne.

I am [etc.] CHARLES E. HUGHES

[53] Not printed.

867.602 Ot 81/304

Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

[WASHINGTON, *undated.*]

On April 11th and again on April 12th, General Goethals called to see me and to inquire as to the attitude of the Department towards the Chester concession. I told the General that we had as yet no details of the reported grant although we had received a copy of the concession as drafted on February 20th.[55] At his request I left with him a copy of the two contracts and the preliminary agreement.

General Goethals said that he expected the Department to give vigorous support to the concession and referred particularly to the question of Mosul, inquiring whether we would be prepared to support their claims as against the British interests in this area. I referred General Goethals to my talk with Mr. Colby Chester; said that I understood the Company would submit a statement of their views with regard to their claims in this area. I added that he was probably familiar with the policy the Department had followed in declining to interfere with regard to territorial settlements in the Near East and that the question of the disputed rights in Mosul might depend upon where the frontier between Turkey and Iraq was eventually drawn; that this was a matter, which according to the Lausanne negotiations, was to be decided between Great Britain and Turkey.

General Goethals told me of a conversation he had just had with the French Ambassador. He called to see the Ambassador to take up the question of the development of the Rhone. After they had discussed that question, the Ambassador questioned him about the Chester concession. General Goethals replied that he had very little information as to the exact nature of the grant and therefore did not feel qualified to discuss it. Ambassador Jusserand pressed him for an answer, and particularly inquired whether the Chester interests maintained that this was a confirmation of a previous grant or was a new concession. General Goethals (who indicated to me that he did not have a very thorough knowledge of the facts in the case but said that he felt it was desirable to answer the Ambassador's inquiry) stated that in his opinion it was a confirmation of a previous grant. General Goethals informed me that in talking with the Ambassador he made the statement that it would be his desire to interest British and French capital in the project under an American controlled company. The Ambassador inquired whether he could telegraph this to his Government. General Goethals replied that he was free to telegraph anything which he had told him.

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[55] Not found in Department files; for final texts, see pp. 1216 ff.

In explaining to me his conversation with the Ambassador, General Goethals said it would be his policy to make friends rather than enemies and that for this reason he would be disposed to interest other capital; that he already had approached a French group and that he planned to do the same with British interests. He emphasized that the British interests which he would desire to associate in this Company would not be the Anglo–Persian Oil Company.

General Goethals also remarked that Admiral Chester desired to go to Lausanne to support his interests there and asked my opinion. I said that while the Admiral was a free agent to go where he pleased, I could not see how his interests would be advanced by the trip suggested. Our representatives at Lausanne were not there to support particular concessionary interests but all American rights and that to inject the Chester concession unduly into the negotiations through the presence there of the Admiral might prove unfortunate. If he had a concession why discuss the matter—it would seem the part of prudence to avoid rather than provoke any international discussion of the subject. . . .

A[LLEN] W. D[ULLES]

867.602 Ot 81/258 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *April 12, 1923—noon.*
[Received April 12—11:09 a.m.]

104. French High Commissioner presented yesterday to Angora representative formal note of protest against adoption of the Chester project by Assembly. Am following situation closely and will telegraph details later.

BRISTOL

867.602 Ot 81/258 : Telegram

The Secretary of State to the Ambassador in France (Herrick)[56]

[Paraphrase]

WASHINGTON, *April 13, 1923—5 p. m.*

150. Bristol telegraphs that protest regarding reported grant of concession to the Ottoman–American Development Company has been addressed to the Turkish authorities by the French High Commissioner at Constantinople. Department has not as yet received definite information concerning the concession, which may have been

[56] See last paragraph for instructions to repeat to Berne as no. 22, to London as no. 85, to Rome as no. 32, and to Constantinople as no. 69.

granted, but apparently the French protest was based on belief that the concession was in conflict with alleged rights of French interests. The following indicates the Department's attitude in this matter:

(1) The secret negotiations for this concession have been conducted by the business men concerned and this government has taken no part in them.

(2) Judging from the incomplete reports which the Department has received, the concession is not monopolistic. Obviously it is customary to grant rights to construct railroads between any two points to a single interest, and there would seem to be no objection *per se* to a provision for mining rights on each side of a railroad.

(3) In case a question arises regarding the validity of claims or if claims conflict, the questions at issue should be settled by an impartial tribunal or by friendly understanding based upon a proper consideration of the relative merits of the claims in dispute. Our representatives at the Lausanne Conference have made this clear.

Repeat for confidential information to Berne as no. 22, London as no. 85, Rome as no. 32, and to Constantinople as no. 69.

HUGHES

867.602 Ot 81/264 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *April 16, 1923—3 p.m.*

[Received 10:45 p.m.]

111. Your 67, April 12,[57] and 69, April 13.[58] Barnes[59] arrived yesterday from Angora. He confirms the report that the Grand National Assembly accepted the Chester project on April 10[9], the vote being 141 to 16.

Department will receive latest complete text of Chester project available and also memorandum of agricultural agreement in my despatch 731, March 27,[57] which left here on March 29. The numerous minor changes made by the four commissions of the Assembly which examined this project are not shown in this text. In the Assembly itself a few changes in detail were made, chiefly in shortening the periods of time allowed for exercising the rights of option. As an example, the time within which a decision must be reached as to undertaking the Samsoun–Sivas line has been fixed at 6 months. Rights respecting the importation of coal are limited to 10 instead

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[57] Not printed.

[58] See footnote 56, p. 1201.

[59] Consul Maynard B. Barnes, attached to the High Commission at Constantinople.

of to 20 years. Work on the Taurus line is to start at Oulakushla and move toward Angora instead of vice versa. In general the changes made both by the Assembly and commissions affect the subsidiary lines which are now included in the project, but the plans for the main lines of the original project were adopted in nearly the same form as when they were discussed first last summer. In a few days a correct text of the agreements as finally adopted will be published in Angora. As soon as possible I will send copies to the Department. The competent government authorities have signed the agricultural agreement, which has gone into effect. Tomorrow I will telegraph a brief summary.

With respect to Department's views, as set forth in its telegram 69 of April 13, I venture to make the following observations:

1. The Turks seem inclined to resent French protests filed in Angora by Mougin and here by Pellé. They maintain that they have acted within their sovereign rights in adopting a project which they consider of immense importance for the development of Turkey and they point out that the Turkish Chamber of Deputies never properly ratified the concession of the Samsoun-Sivas line in 1914 to the French. The French propaganda campaign against the Chester project has exasperated the Turks. . . .

2. I am investigating the facts regarding the French concession, which at present are by no means clear. I rather think the obligation, if there is any, is more moral than legal.

3. It is entirely possible that the French protests are not sincere but are primarily intended to supply material with which to bargain at Lausanne. The French have much to ask with their concessionary companies, their schools, and their interest in the debt. It will be a great convenience, therefore, to have something to yield.

4. For us to volunteer settlement through friendly understanding or arbitration at present would, in my judgment, be nothing short of disastrous. The Turks would certainly be irritated at such a gratuitous move, and it could not fail to be injurious to the carrying out of the Chester concession. Our prestige in years to come throughout the Near East will depend on the way in which this project is carried out. The consequences for all American philanthropy, as well as business in the Near East, will be most deplorable if a false move is made at this time.

5. The mineral rights granted in the Chester concession merely take the place of kilometric guarantees. The projected railroads are not expected to begin to earn profits for many years. In the construction of some of the transcontinental lines in the United States a similar arrangement was made.

6. It is known in the Department that I have always been guarded in my attitude toward the Chester project, being afraid that the

people behind it might not be able to make good their promises. However, now that the Turks have adopted the project and the French have seen fit to make more open and formal the hostility which they have shown at Angora and Constantinople constantly for the last nine months, it would be a severe blow to American business initiative and prestige should the American Government fail to back the Chester concession with all the effective support which is compatible with the Open-Door policy and instead make a hasty offer of compromise and arbitration for the settlement of a grievance which may be shown to be nothing of the kind by investigation and the coming negotiations at Lausanne. It is my earnest hope that the Department will show the utmost circumspection and reticence regarding the French protests, and above all will take no action until the true facts of the 1914 concession and the motives for these protests can be thoroughly investigated and appreciated.

BRISTOL

867.602 Ot 81/264½

Memorandum by the Secretary of State of a Conversation with the French Ambassador (Jusserand), April 16, 1923

Chester Concession.—The Ambassador said that he did not come to "declare war" or to make a formal protest, but he wished to call attention to the following facts: The concession had been granted to the French before the war covering the right to build certain railroads in Anatolia in consideration of a loan to the Turkish Government of a billion gold francs. The concession was completed and entirely valid. The French had loaned about half the money and had prepared to build the railroads when the war came on and everything was suspended. The French had felt that they had valid rights. The Ambassador said that he did not know to what extent there was a conflict. It might be only to a part of the railroad, but he understood a part of the Chester concession embraced the tracks which the French had already laid down. He thought there ought to be an amicable way of settling a matter of that sort. The Ambassador said that the French supported the Open Door principle but thought it was inconsistent with that principle that when a concession had already been granted it should be annulled and another concession granted on top of it. It might be that on such a principle at Angora or somewhere else the American concession might be annulled. He hoped that the two Governments would be able to find some way of working together in the matter.

The Secretary said it seemed to him advisable in the first instance to get at the actual facts. He would like to know just what the French concession was and to what extent there was an actual con-

flict. Then there would likely be legal questions which should be considered. The Secretary said he had not yet complete information with regard to the Chester concession and was not in a position to speak regarding it, but he could assure the Ambassador, however, that if the Ambassador would supply a memorandum with regard to the facts of the case and any legal questions that were involved it would receive careful examination in the Department.

The Ambassador said that he would like to be able to inform his Government that there would be a disposition on the part of the American Government to cooperate in the matter. The Secretary said that the American Government was not the grantee of the concession; that there were private interests who had received it. The Secretary said he did not know exactly what would be the attitude of these interests, but he supposed it to be not improbable that they would be glad to have some basis for a friendly settlement. However, he could not commit them upon that point. The Ambassador said that he would endeavor to get full information for the Secretary.

867.602 Ot 81/268 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *via Paris, April 19, 1923—2 p.m.*
[Received April 20—11:15 a.m.]

118. Department's 67, April 12, 5 p.m.[60] Agricultural concession negotiated by Clayton-Kennedy is for [the] sale to private individuals in Turkey of agricultural machines and implements and provides for establishment, after agreement with Commissariat of Economy, of repair and workshops. Company is given right to manufacture in Turkey machines or parts thereof. Company can lease land by special contract and subject to control of Commissariat of Economy for establishment of model farms. Ottoman-American Development Company must for above purposes and within three months establish a company 70 percent of stock of which shall be offered during period of six months to subscription of Turkish business men. If 40 percent of stock is bought by Turks company will acquire Ottoman nationality. Payment for agricultural machinery by installments accepted by company in principle. Prices to be fixed by experts of Commissariat of Economy and of company. To these prices a 15 percent profit is added for imported machines and 20 percent for machines manufactured by company in Turkey. If company's annual receipts inferior to £4,000, Turkish Commissariat of

[60] Not printed.

Economy and agricultural banks will make up deficit for period of six years, but if during first three years company's receipts total £3,000,000, Turkish Government is relieved from guarantee for remaining three years. Full text by mail. Reliably informed first orders under concession actually given.

BRISTOL

867.602 Ot 81/264 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *April 20, 1923—3 p.m.*

76. Your 111 of April 16. Forward as soon as possible either translation or French text of ratified project. Telegraph a summary of principal changes in text enclosed in your despatch no. 731, March 27.[61]

The Department is in entire accord with your view that the greatest reticence and circumspection should be shown in the situation and that there should be no action until the facts are completely known and considered. We have maintained this attitude in correspondence and in the usual informal press conferences. We have consistently stressed the following points:

1. The Department has not received adequate information as yet.
2. The concession is not to the Government of the United States but to an American company.
3. The Government's interest is to insure fair play, equal opportunity, and the Open Door.
4. Hitherto the negotiations have been conducted directly between representatives of the Chester interests and local authorities.
5. It does not appear that the concession is monopolistic.
6. When American rights are believed to be valid, our Government gives them proper support.
7. The Department examines the pertinent issues as to fact and law if the validity of an American right is challenged or if some conflict of rights is alleged.
8. There are always means of establishing the rights that are entitled to be maintained in case a serious and bona fide controversy arises. This, however, does not mean that resort to arbitration would be justified by claims which might be trumped up simply to embarrass a concessionaire and which do not have satisfactory evidence to support them.

No premature offers of settlement or of arbitration have been made. You will remember, however, that the letter which Ambassador

[61] Not printed.

Child addressed to Lord Curzon on February 4, 1923,[62] with special reference to certain provisions of the draft treaty between the Allies and Turkey suggested that conflicting claims should be arbitrated. This letter was motivated not only by claims of the nationals of other countries but also by asserted American claims. At the time the Department approved of this statement, and it still approves of it. We are aware, however, that it may cut both ways.

You will be interested to learn in this connection that in private conversation General Goethals has indicated to the Department, and we understand also to the French Ambassador, that he wishes to make friends rather than enemies as regards this concession and is ready to interest British and French capital in the project under American control.

The granting of the Chester concession may be understood to mark the triumph in Turkey of the Open-Door policy, as against such policies as inspired the tripartite agreement and the Bagdad railroad concession. The best way to maintain American prestige in this situation is to be just and consistent. Our constant support of valid American rights makes it necessary that we give fair consideration when other valid rights are asserted. This will strengthen our position and at the same time allay the apprehension of the many in the United States who fear that we will become entangled.

Of course we shall not permit ourselves to be drawn into controversies of a purely political or territorial nature. For example, this Government is not participating in the question of the southern boundary of Turkey.

The Department has not had an opportunity as yet to examine thoroughly the legal phases of the issues involved, but it is not in a position to support the claim, should it be made, that Chester obtained valid legal rights under negotiations prior to the present concession. For the Department to do so in the absence of facts differentiating the legal status of Chester's pre-war claim from that of the alleged rights of the Turkish Petroleum Company would be inconsistent with our attitude in contesting that company's claims.

The Department is presenting these considerations confidentially for your information and guidance. It is desired that you maintain the greatest reserve with both Allies and Turks until the situation has developed further. You should refuse to take criticisms too seriously and take the position that many of the points at issue will solve themselves when all the facts are known. Obtain all data possible on French claims and keep the Department informed in the meantime.

HUGHES

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[62] See telegram no. 244, Feb. 7, from the Special Mission at Lausanne, p. 968.

767.68119E/7 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *April 28, 1923—1 a.m.*
[Received 3:15 a.m.]

268. I was informed tonight by Montagna that he, Rumbold, and Pellé [63] had decided to postpone for 10 days or two weeks discussion in the Third Committee regarding the economic clauses relating to concessions. All other clauses would be considered first. The French concessionaires are now on their way to Constantinople, and this postponement would give them time to arrive at some satisfactory direct settlement with the Turkish authorities in respect to the Chester concession. In case they fail, the issue would later be raised again at Lausanne.

From what I gather I understand that if the French claim comes up at Lausanne it will have the active support of the British and Italian delegates. I am taking an attitude of optimism and reserve in the meantime, as instructed.

Is it a fact that the capital of the Ottoman-American Development Company is 49 percent Canadian? This should have an important bearing on any negotiations either here or at Constantinople, if it is true.

GREW

867.602 Ot 81/300

The British Ambassador (Geddes) to the Secretary of State

No. 331 WASHINGTON, *April 30, 1923.*

MY DEAR MR. SECRETARY: I have noticed lately in the Press statements to the effect that the concession recently granted to Admiral Chester by the Angora Government comprises certain rights in Mesopotamia.

In order to avoid future misunderstanding and the possible development at a later date of some ill-feeling which might conceivably ruffle the surface of Anglo-American relations, at least in the public mind, I venture to suggest to you that it might be useful if you could see your way to convey to Admiral Chester and his associates an understanding of the elementary fact that the Turkish Government at Angora cannot grant rights in Mesopotamia which is not

[63] Italian, British, and French delegates, respectively, at the Lausanne Conference.

within its jurisdiction. I have not of course seen the authorised text of the concession and am ignorant if it in fact purports to convey rights in territory detached from the Turkish Empire by force of arms in the late war and not handed back to Turkey. If it do, I venture to hope that you will take such steps as seem good to you to make it plain to the individuals concerned that His Majesty's Government is unable to recognise the validity of any concession in Mesopotamia granted by the Turkish Government at Angora.

I am [etc.] A. C. GEDDES

867.602 Ot 81/300

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *May 1, 1923.*

MY DEAR MR. AMBASSADOR: I have received your letter of April 30th in which, in referring to statements noted in the Press that the concession recently granted to Admiral Chester by the Angora Government comprises certain rights in Mesopotamia, you indicate the view of your Government with regard to such a contingency.

While the Department has not, as yet, received a final text of the concession in question, I take this occasion to assure you that careful consideration will be given to the observations which you have presented when more definite information as to the exact nature of the grant is available.

I am [etc.] CHARLES E. HUGHES

867.602 Ot 81/294 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *May 2, 1923—5 p.m.*

[Received 6:50 p.m.]

132. Chester project agreement signed at Angora April 29.

BRISTOL

867.602 Ot 81/292 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 2, 1923—8 p.m.*

122. Your telegram 268 of April 28, final paragraph. It is stated that C. A. Barnard, a Canadian, controls 2,550 of the 5,000 shares

of the stock of the Ottoman-American Development Company, as it was reorganized in April, 1922. However, a voting trust agreement was made on December 6, 1922, between Barnard, General Goethals, who is President of the Company, Admiral Rousseau, and H. C. Sheridan. This agreement provided that for five years control of Barnard's stock should be vested in the three Americans and that a new company would be set up after the concession was confirmed, in which Barnard should receive 49 percent of the stock. The substantial claims of the Chester interests under Barnard's contract of April 12, 1922, with Admiral Chester, must be satisfied out of this 49 percent.

It is also provided in the agreement that the remaining 51 percent of the capital stock of the new company must be held at all times by American citizens. It is to be issued in order to secure the necessary capital to carry out the concession.

We are informed that the above agreement is still in force. No steps for the formation of the new company have been taken as yet but the parties chiefly interested will hold a conference this week at which that subject will be considered among others. In speaking of the company use the greatest caution, stressing its private character.

HUGHES

867.602 Ot 81/310a : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *May 4, 1923—1 p.m.*

124. 1. Press reports have come to the Department's attention indicating an expectation on the part of the Turks that they will receive substantial financial aid from America, possibly in the form of a loan of several hundred million dollars to pay off the Turkish debt and free the country from the domination of Europe. Kuhn, Loeb and Company was named in one report from Lausanne as the firm which was supposedly backing the Chester project. The Department received a telegram on April 27 from Otto H. Kahn,[64] in which he denied this report and stated that neither his company nor himself would make any such commitment without first learning the attitude of the State Department.

2. Mr. Kahn visited the Department on May 2 . . . He stated that unless there appeared to be a national interest he did not think

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[64] Not printed.

there was any likelihood of ample financial backing. By "national interest" he did not mean necessarily governmental interest but that a feeling should be expressed through Government authorities that the undertaking of this enterprise would be in the interest of the United States. He spoke also of the uncertain conditions in Turkey, of opposition from other powers, and of the necessity of being supported by the American Government. He explained that he was not expecting an immediate answer but that the subject would probably be brought to the Department's attention in a few weeks after it had been examined.

3. Mr. Kahn was told that our general attitude was clear although the terms of the concession had not as yet been transmitted to the Department. The Open-Door doctrine, which was most clearly defined in the Washington Conference treaty concerning China, was not an abstract principle, and it was always agreeable to note that Americans took advantage of it by legitimate action when the opportunity presented itself. However, the United States was committed to the principle as one of general application and unless we were just ourselves we could not demand justice from others. Moreover, it could not be expected that the American Government would change its policy as far as territorial questions were concerned simply because concessions had been obtained, nor would the American people wish to become involved in territorial disputes.

4. This conversation emphasizes the belief of the Department that for the Turks to gain the erroneous impression that they can assume that American capital is at their disposal under present conditions, and in the light of recent experience, would be most unfortunate. The facts are very different. Abrogation of treaty obligations by unilateral action, hesitancy in giving satisfactory guarantees for the regime of foreigners in the future, and capricious legislation may shake confidence to such an extent as to discourage American investors from risking their money in Turkey. The fact is that the question has been raised in the minds of practical Americans, by recent exorbitant taxes and customs dues and arbitrary company and school regulations, whether it will be possible to carry on private enterprise in Turkey.

5. It should be understood of course that our treaty negotiations with the Turks must rest upon their own basis. The Department cannot hold out any inducement that American capital will come to the aid of Turkey in return for possible concessions by the Turks during these negotiations. Private American business interests will

decide this matter for themselves. It has been my object in this instruction to point out that for the Turks to pursue a certain course would not assist in bringing about a condition tending to encourage the action by American business interests, which apparently the Turks desire.

6. While this instruction is sent in strict confidence for your information and guidance, you may, if it is necessary in order to avoid any misunderstanding of the Department's attitude by the Turks, make use in informal conversation at your discretion of the information given in the fourth and fifth paragraphs.

7. Repeat this telegram to Constantinople as our no. 92.

HUGHES

867.602 Ot 81/334 : Telegram

The Special Mission at Lausanne to the Secretary of State

[Paraphrase]

LAUSANNE, *May 29, 1923—midnight.*

[Received May 30—8:11 a.m.]

380. I received a call today from Pellé who discussed with me the Chester concession. He told me that he wished to keep me advised beforehand of any action he may plan to take regarding it. He explained that at three points the Chester concession touches French interests: (1) Article 12 of the Chester's supplementary article of agreement, which conflicts with article 10 of the Franklin–Bouillon agreement; (2) the Samsun–Sivas Railway; (3) development of the port of Samsun.

Pellé defended the French position by outlining the history of the French concessions and emphasized the following: In 1914, agreements were reached in Constantinople and Paris. It was arranged that Turkey was to receive a French loan of 800,000,000 francs and was to grant in return the concessions mentioned above and also some special privileges for French schools and other enterprises in Turkey. By an imperial *irade* of April 8, 1914, these agreements were confirmed. In June, at the opening of the Turkish Parliament, the speech from the throne and the parliamentary reply made favorable mention of the French agreement. On July 14, 1914, a law was passed by the Turkish Parliament sanctioning the loan. Whereupon France made an advance of 500,000,000 francs, and work on the railway was actually begun. But the work was interrupted less than a month later owing to the outbreak of war. General Pellé himself

was assured in February, 1922, by Hamid Bey, who was the representative in Constantinople of the Angora Assembly, that Turkey would respect the French concessions made before the war.

Pellé has declared his readiness to have copies of all the relevant documents sent to me.

He stated that while there was no wish on the part of the French Government to thwart the Chester concession, nevertheless it would present to the Turkish Government the following demands: (1) That pre-war concessions shall be respected in principle; (2) that in case such concessions have been transferred to others, compensation shall be given. The implication of this is that the French Government does not demand the recovery of the Samsun–Sivas line and other concessions, but is prepared to accept something else as equivalent. This is a relatively unimportant matter in any case as compared to the maintenance of the prestige of France in Turkey, which would be considerably diminished if the Turkish Government should not accept the principle mentioned above.

Pellé also told me that on Thursday he intends to discuss the two French demands with Ismet. He would be obliged to lay the matter before the conference if he failed in his private negotiations, but he promised to inform me in advance regarding his intentions. The treaty must in any case include some general clause by which the rights of the concessionaires now negotiating at Angora will be confirmed.

I solicit the Department's instructions on the following:

(1) Should an occasion arise in the conference for making a formal statement defining the position of the United States, does the Department desire that the three points contained in its 22 of April 13 to Berne [65] be followed closely in the statement?

In considering the third point mentioned above, I am reminded that in the Department's telegram of April 20, 3 p.m., to Paris there is some advice from Admiral Bristol against volunteering arbitration.[66] It is also my own opinion that an unfortunate impression might be created in Turkey if we put forward such a suggestion. I should be glad if the text of an appropriate statement could be drafted and telegraphed to me by the Department, together with authorization to make use of only such parts of it as circumstances should require.

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[65] See footnote 56, p. 1201.

[66] Not printed; see telegram no. 111, Apr. 16, from the High Commissioner at Constantinople, p. 1202.

(2) I have received from Pellé an offer to embody in a note to me the legal aspects of the French case. I have suggested, however, that I would consult him again if any of the points in the statement he made to me today needs to be clarified. Does the Department desire to have such a statement in writing, or shall I decline Pellé's offer?

GREW

867.602 Ot 81/334 : Telegram

The Secretary of State to the Special Mission at Lausanne

[Paraphrase]

WASHINGTON, *June 1, 1923—5 p.m.*

161. Your telegram 380 of May 29. The Department's attitude has been substantially set forth in telegrams 22 of April 13 to Berne [67] and 105 of April 20 to Lausanne,[68] which you mention, and in 124 of May 4 to Lausanne. The Department has not received any copy of the concession as ratified. The Department did not have any part in obtaining the concession and believes that any conflict in claims should be settled by the interested parties among themselves and with the Governments concerned. Should Pellé insist upon bringing the matter up in the conference you may discreetly use the points emphasized by the Department in its telegrams. You should avoid a direct offer of arbitration, but stress the fact that this Government desires fair play and reciprocal regard for valid rights and that its interest is in assuring equality of opportunity.

The representations by Ambassador Jusserand, described in my 113 of April 27,[69] have not been followed up, and he has not presented to the Department any data concerning the French claims which it is alleged are in conflict with the Chester concession. We wish to avoid creating the impression that the issue is one to be settled between the Governments of the United States and France. Your attitude in discouraging Pellé from making a formal written communication is therefore approved. The Department, however, would not wish to have you act in such a manner as to make it possible for Pellé to say that you had kept him from informing

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[67] See footnote 56, p. 1201.

[68] Not printed.

[69] Not printed; see memorandum of a conversation between the Secretary of State and the French Ambassador, Apr. 16, p. 1204.

you regarding French claims. It would be helpful if you could informally and discreetly obtain any facts regarding these claims.

. . . . . .

HUGHES

867.602 Ot 81/386

The Ottoman-American Development Company to the Secretary of State

NEW YORK, *July 25, 1923.*
[Received July 26.]

SIR: Mr. K. E. Clayton-Kennedy is going to Washington tonight for the purpose of handing to the State Department photostat copies of the following documents referring to the Ottoman-American Concessions in Turkey:

(*a*) Preliminary Agreement and certified English translation.
(*b*) Definitive convention and certified English translation.
(*c*) Cahier des Charges. (Turkish only).[70]
(*d*) Supplementary Contract and certified English translation.
(*e*) 1. Expose de Motif of Faizi Bey, Minister of Public Works, dated Jan. 22, 1339/1923.[70]
2. Letter of Mahmoud Essad Bey, Minister of Economy, dated Jan. 11, 1339/1923.[70]
3. Draft of the Law for Ratification of the project, accepted by Board of Ministers, (English only).[70]
(*f*) Certified copy of Law ratifying the project and certified translation (English).
(*g*) Letter of Faizi Bey, Minister of Public Works, dated April 30/1st May, 1923.
Ref. Dir. Gen. Railroads Nr. 1201/3878 and certified English translation.[70]
(*h*) Convention for supply of Agricultural implements and machinery and certified English translation.[70]

The Turkish copy of (*c*) and the English copy of (*e*) will be ready in the near future and will be sent if the State Department desires them.

Respectfully,

OTTOMAN-AMERICAN DEVELOPMENT COMPANY
K. E. CLAYTON-KENNEDY
Assistant to Vice President & Gen. Mgr.

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[70] Not printed.

[Enclosure 1—Translation]

Preliminary Agreement between the Turkish Government and the Ottoman–American Development Company Regarding the Eastern Anatolian Railways

Between:

The Minister of Public Works, Feyzi Bey, acting in the name and on behalf of the Government of the Great National Assembly of Turkey,

Party of the First Part,

And

Mr. K. E. Clayton-Kennedy and Mr. Arthur T. Chester, both acting in conformity with Power of Attorney dated May 5th, 1922, on behalf and for the interest of the Ottoman-American Development Company, a firm established in accordance with the laws of the State of Delaware, U. S. A.,

Parties of the Second Part.

The following articles have been agreed to:

ARTICLE 1

The Ottoman–American Development Company agrees to execute and perform the work specified in the following Articles at its own expense and risk, provided this Agreement is confirmed and approved by a law.

The Company must prepare reconnaissance survey maps for establishment of a railway having a gauge 1,435 meters, and [make] delivery of them to the Public Works Department. The general direction of the lines will be directed by the Public Works Department and the whole system will follow the itinerary viz.:

1.–A line from Sivas to Van following the North or South shore of Lake Van passing through Harpoot, Etgani, Diarbekir, and Bitlis.

2.–Likewise from a point near Harpoot to Youmourtalik following the valley of Djeyhoun.

3.–Starting from a point, to be fixed, on the line (1) passing through Moussoul and Guerkeuk and terminating at Suleymaniey.

ARTICLE 2

The reconnaissance survey map concerning each of the lines which were stated in the Article (1) should contain the following particulars:

A) A general map will be prepared to the scale of 1/200,000 meter showing physical development of the land, particularly high and low lands. The route of the proposed railway will be shown on this

map by a heavy red line, kilometric distances, location of stations, and important industrial centers will be also indicated.

B) A map numerically indicated in such a way as to show important political and physical features, and drawn to a scale of 1/25,000 meter shall be made from an instrument survey. This map will contain the elevations of a sufficient number of points which with the aid of contour lines at convenient intervals will show clearly the topographical features of the route selected. The route of the proposed railway will be indicated by a heavy red line and kilometrical distances, location of stations and important industrial centers as well as radii of horizontal curves with their lengths will be also indicated thereon.

C) Longitudinal profiles will be indicated on a scale of 1/500 meter in vertically and 1/5,000 meter in horizontally. On this longitudinal profile, the different elevations will be shown in terms of distances above sea level. Underneath the base line several horizontal parallel lines will be indicated, containing the following informations:—

I.–The elevations of important points of the route.

II.–The elevations of different points of the original surface of the earth.

III.–The plus distances to preceeding hectometer of ordinates of different points.

IV.–Kilometric distances from the beginning of the proposed railway.

V.–Lengths of grades as well as their degree of inclination.

VI.–The lengths of all tangents, the length and the degree of all curves and the lengths of the radii thereof will be indicated. The excavation and embankment figures will be placed below and above respectively the grade line. The elevation of original surface and proposed grade will be indicated in centimeters and meters. The location of all stations and industrial centers will be indicated on the longitudinal profile.

D) Typical cross sections of the proposed railway.

E) A list indicating briefly the various items of construction and their cost.

F) A report on the proposed route of the railway.

The above mentioned maps will be prepared on tracing cloth and submitted to the Public Works Department gratis.

Article 3

The Government of the Great National Assembly of Turkey allows to the Ottoman–American Development Company a period of two years, starting from the date of ratification by law of this Agreement, for preparing and completing reconnaissance survey stated in the Article (1).

Article 4

The Ottoman–American Development Company will have the right to notify the Turkish Government if it definitively accepts or not the

concession within the time of two years, for the construction and the exploitation of the railways specified in the 1st Article, as well as for the working of all mines situated within the lands comprised in a distance of twenty kilometers on each side of the line, according to the terms of annexed Convention and Cahier des Charges.

ARTICLE 5

If the Ottoman–American Development Company does not give, within the two years as above stated, written notice to the Public Works Department that it will exercise its option granted as per Article 4 above stated, this Agreement will be cancelled and both parties will have no right to apply to each other for any compensation, damage or indemnity. However, the caution money (deposit) stated in Article 9 will be returned to the Party of the Second Part upon the delivery by them to the Party of the First Part of the plans and specifications prepared in conformity with Article (2) hereof. If the Company does not submit to the said Department all the documents in complete series concerning the reconnoitring operations for the railways and for the mines, or, if the documents submitted by the Company are not prepared in accordance with the terms of this Agreement, and the rules of technic, the Government will seize the amount placed as deposit by the Company; in event of which the Government can act without previous warning.

ARTICLE 6

On the contrary, if the Ottoman–American Development Company gives notice, within two years that it will exercise its option mentioned in Article 4, it will have to increase the amount deposited to 70.000 Turkish pounds, within the space of time fixed in the annexed Agreement, after the fulfilment of this condition, the Company will be considered as the "Concessionnaire," according to terms of the annexed Convention and Cahier des Charges.

ARTICLE 7

If the Ottoman–American Development Company after having definitively accepted the concession according to Article 4, does not increase the amount deposited within the time specified in the annexed Convention, to 70.000 Turkish Pounds, the concession will be considered as cancelled and the Government will seize the amount originally placed by the Company as deposit without any further notification.

ARTICLE 8

If the Ottoman–American Development Company does not carry out its engagements, except in case of "force majeure", this Agreement will be considered as cancelled and the Government will seize the amount deposited of the Company without any further notification. Bad weather can not be considered as being a case of "force majeure".

ARTICLE 9

The Ottoman–American Development Company as a guaranty for the execution of its engagements has placed in the Constantinople Branch of the Banca Commerciale Italiana, which Bank is recognized and accepted by the Government, 50.000 Turkish Pounds.

ARTICLE 10

The Government reserves the right to appoint at its own expenses, technical representatives to attend the staff of the Company along the reconnoitring operations; however, the Government representatives will have no right to interfere with the execution of the work; they will merely observe and follow the operations.

ARTICLE 11

The Council of State or the body which may be substituted for it, is the competent authority for the judgment and settlement of all disagreements which may eventually occur between the Great National Assembly of Turkey and the Ottoman–American Development Company through misunderstanding or misinterpreting the terms of this Agreement.

ARTICLE 12

In case the Turkish Government does not ratify the terms of this Agreement, the Principal Convention, the Cahier des Charges, and the Supplementary Contract, the Ottoman–American Development Company will have no right to claim any compensation or indemnity. However, in eight days from the date of the receipt of notification to be given by the Public Works Department to the Ottoman–American Development Company, of the fact that the said Agreement has not been ratified, the amount placed by the Company as a deposit will be returned.

ARTICLE 13

The articles of the Principle Convention concerning mines are also a part of this Preliminary Agreement.

[Enclosure 2—Translation]

Definitive Convention between the Turkish Government and the Ottoman–American Development Company for the Eastern Anatolian Railways

Between:

His Excellency Feyzi Bey, Minister of Public Works, acting, in the name and on behalf of the Government of the Great National Assembly of Turkey.

Party of the First Part,

And

K. E. Clayton Kennedy and Arthur Chester, both acting in conformity with Power of Attorney dated May 5th 1922, in the name and in behalf of the Ottoman–American Development Company, a Society formed under the laws of the State of Delaware U. S. A.,

Party of the Second Part,

it has been agreed and determined as follows, and the convention shall be ratified by Parliament:

ARTICLE 1

The Government of the Great National Assembly of Turkey accords under the conditions of the present convention and of the Cahier des Charges annexed, to the Ottoman–American Development Company, the concession, which, it accepts, for the construction and the exploitation of Railways, having a gauge of 1,435 meters measured from the inside of the T. rail as follows, to wit:

1.–From Sivas to Van, following the North or South shore of the lake, by Harpoot, Ergani, Diarbekir and Bitlis.
2.–From a point near Harpoot to Youmourtalik, following the valley of Djejhoun.
3.–From a point on the line (1) to Suleymanié, by way of Moussoul and Guerkeuk.

ARTICLE 2

The duration of the Concession shall be ninety-nine years, reckoned from the date at which the present convention shall become definitive.

ARTICLE 3

As a guaranty of execution of the present engagements, the Ottoman-American Development Company must, within the period of one month, reckoned from the day when it shall have notified the Minister of Public Works of its definitive acceptance, increase the deposit money of Ltqs. 50.000.—in the Banca Commerciale Italiana,

Constantinople Branch, to the sum of Ltqs. 70.000.—. The deposit money must be deposited in specie or an equal amount in bonds at the market value of the day; if the increased deposit is made in bonds, the Bank will take the engagement to make good the depreciation in case it occurs. The deposit will not be returned to the Society, until the final receipt of a section of 200 kilometers. The Society will have the right to deposit the money in a Bank other than the Ottoman Bank, provided that this Bank be agreed to by the Minister of Public Works. At all times, if the Bank is foreign, it must, by an act formally legalised by its Ambassador, declare that it recognises the jurisdiction of the Court of the Government of the Great National Assembly in case of a contest bearing on the deposit money. If in a period of one month, as above stated, the Ottoman American Development Company has not effected the deposit above mentioned, the present concession will be annuled without notice in advance and the original deposit money of Ltqs. 50.000.—becomes the property of the State. If the Ottoman American Development Company does not form the Turkish Limited Society within the period and under the conditions fixed by the present convention, and in conformity with legal procedure, the deposit money increased to Ltqs. 70.000.—becomes the property of the Government without notice in advance, and this concession will be annuled.

Article 4

For the execution of the engagements which it contracts by the present convention, the Ottoman-American Development Company is held to form, at the latest within a period of six months reckoned from the time when the convention shall become definitive, and on the basis of the Statutes agreed and approved by the Government of the Great National Assembly, a Turkish Limited Society which shall be subjected to all the laws, present and future, of the said Government of Turkey. At least one third of the elected Board of Directors will be Turks. The Ottoman American Development Company engages itself to reserve 50% of the shares of the Turkish Limited Company which it shall issue and offer these for sale to Turkish Subjects who may wish to subscribe during the six months following the notice which shall be given in the newspapers of the Capital. At the end of this delay, the Ottoman American Development Company shall have the right to sell to other subscribers all or any part of these shares not subscribed to by Turkish Subjects.

Article 5

The Turkish Limited Company must present, after definitive studies at the railroad lines mentioned in this convention and in

conformity with the clauses of the cahier des charges, in four copies, one of which is on tracing cloth, the plans and projects of the lines, in the periods following, to wit:

A) In that which concerns the line number (2) the projects and plans must be submitted at the rate of 200 kilometers every four months, and the projects of the first 200 kilometers reckoned from Yomourtalik must be presented in a period of twelve months counting from the time when the present convention shall become definitive.

B) In that which concerns the projects and the plans of the rest of the system, must be presented at the rate of 200 kilometers every nine months, and this reckoned from the date of presentation of the plans for the whole of the line number (2). These plans and projects must be examined and as the case may be, approved by the Minister of Public Works, or modified if there is need thereof, in a period of three months reckoned from their presentation.

It is intended that these modifications, made by the Ministry, shall conform to technical rules, and they shall not change the general route accepted and in conformity with the plans made according to the preliminary agreement. After the expiration of this period of three months, if the Public Works Department has not notified the Society of its decision, the latter may consider the projects, as presented, as approved, and proceed with the execution of the works. If the public Works Department introduces modifications of a character to cause delay in plans, and/or execution of the work the period fixed for both shall be extended by a period equal to that of the said delay or delays.

At all times, in case of interference by "force majeure" duly proved, the periods mentioned herein will be prolonged by one of equal duration to the one suffered, on condition that the Society advises this officially and in writing to the Minister of Public Works and the Local Authorities.

ARTICLE 6

The Society undertakes to commence the work of each of the sections of line number (2) in a maximum period of six months after date fixed for the presentation of the plans relative thereto, and to finish these in a maximum period of three years reckoned from the expiration of the time fixed for the presentation of the said plans. In that which concerns the other sections of the system, the work must commence within two years and be finished within seven years, reckoned from the time fixed for the presentation of plans relative thereto.

At all times, in case of interference by "force majeure", duly proved, the periods fixed for the execution shall be prolonged by one

of the equal duration to that of the interruption of the works, on condition that the Society advises this officially and immediately in writing, to the local Authorities and the Minister of Public Works.

The work must be executed in conformity with the rules of the technic, and the specification of the Cahier des charges as well as with the disposition of the plans and projects approved.

Article 7

The Minister of Public Works will control the survey and works by means of one or more commissioners during their execution and up to the finishing of the work and before its acceptance, this control will apply as well to the upkeep of the work and exploitation during the duration of the concession. The Society will deposit each year, to the order of the Ministry of Public works, under the head of "Cost of Control", a sum of 270 Piasters in gold per kilometer granted payable monthly in twelfths, and this reckoned from the date when the present convention becomes definitive up to the end of this last.

Article 8

The enterprise being of public utility, in case the Society cannot reach an agreement for the purchase of the real estate and lands necessary for the railroad and the dependencies joined to it, as well as for the port of Youmourtalik,—in case of the execution of this last—with the private proprietors eventually met with, the necessary formalities will be made in accordance with the terms and dispositions of the law of the expropriations, and in such case, the cost and expense provided for such expropriation operations will be charged for, to the Society.

After the route of the Railroad is approved of, and that it is appropriated on lands, the Government will expropriate for the account of the Society, the lands and buildings necessary for the construction of the Railroads and the dependencies joined to it, and will deliver same to the Society. This delivery will be made by the Government within a delay of two months reckoned from the delivery of the plan relating thereto, to the Government.

The quarries and ballast pits, of which the temporary occupation during the Construction works as well as for the upkeep of the railroad shall be judged necessary by the Ministry of Public Works, will be delivered by the Local Authorities to the Society, on the agreement of the latter to indemnify the owners.

The land called: "Arazi-i Emiriye-i Haliye" necessary for the establishment of the Railway and its dependencies, will be abandoned gratuitously to the Society up to the end of the Concession.

The temporary occupation during the execution of the works of these lands as well as the quarries and ballast pits, which it may find there, will also be accorded to it under the head of a gratuity. The Society will have the right to use the same quarries and ballast pits for repair works and upkeep of the railroad during the exploitation in conformity with the regulations.

ARTICLE 9

The line shall be established for a single track, however, the expropriations and taking of gratuitous lands, shall be made in view of the establishment of a second track. The Government of the Great National Assembly of Turkey shall have the right to ask the Society to construct the second track when the net receipts, calculated in conformity with Article 22, of the Railway shall reach a sum sufficient to pay the interest and amortizement on the bonds for the second line, as well as the bonds for the old construction still outstanding, and the Society will be bound to construct this second track at its cost.

ARTICLE 10

The material for the Railway, and the fixed material and rolling stock, as well as material iron, wood, machines, and other necessities for the first establishment of the Railway and its dependencies and for the Port of Youmourtalik,—in case of the execution of the latter—which the Society shall buy in Turkey, or which it shall bring from abroad, will be exempt from all interior taxes as well as from all customs. The coal necessary for the exploitation of the Railways described in Article 1 of the present convention, and which the Society shall bring from abroad during the first ten years, (reckoned from the time when the Concession shall become definitive), will be free of all customs duties provided that coal suitable as to quantity and price cannot be secured in Turkey. The lands of the Railway and Port, the capital and revenues of the Society during the duration of the concession shall be free from any taxes.

ARTICLE 11

The wood and timber necessary for the construction and repair of the Railway can be cut in the neighbouring forests belonging to the State, by conforming with the laws and regulations and on paying the taxes relative thereto, and the Society shall have the right to establish brick and tile works, and sawmills for the requirements of its own establishments, but shall conform with the Laws and regu-

lations regarding the matter. If the Society wishes to establish such factories for market requirements it will have to act as other individuals.

ARTICLE 12

As soon as the Society shall notify the Ministry of Public Works of the completion to a point of operation of a part of the work, inspection shall be made, in the shortest delay possible, of the work executed, by a technical Commission, named for this purpose, and which shall proceed to the provisional acceptance, if necessary. A second inspection of the work shall be made a year after, by a technical Commission, and in the case where it is found that the works have been executed in conformity with the rules of the technic and with the clauses of the Cahier des charges, the Public Works Department will pronounce, following the report of the Commission, a definitive acceptance. The above mentioned Commission shall be limited to a maximum of eight persons. All the travelling expenses from the National Capital, will be at the charge of the Society.

The Society has the right to open to traffic and to exploit successive sections of the Railroads which it will construct, provided that such sections amount to, at least 30 kilometers, and are ended at a station; these sections so opened to traffic will be subject to acceptance by the technical Commission.

ARTICLE 13

During the duration of the Concession, the Railway, its dependencies and the port of Yomourtalik,—in case of the execution of the latter—as well as the fixed material and rolling stock shall be kept in a good state of repair, at the cost of the Society, failing which it will be proceeded against in regard of this last, in conformity with Art. 25 of the Cahier des charges.

ARTICLE 14

The Society is held to conform in that which concerns the police, the security and the upkeep of the railway and of the mines to all the laws actually in force or to be promulgated in the future in Turkey.

ARTICLE 15

In case of the interruption of the service of a part or of the whole of the railway or of the Port, by fault of the Society, the Government will take measures necessary, in conformity with Article 25 of the Cahier des charges, to insure the provisional operation. If, in the nine months which follow the interruption, the Society does not

give valid proof that it is in shape to continue the operation, and if it has not effectively taken the measures necessary to obtain this result, the loss of the Concession may be pronounced according to the conditions indicated in Article 27 of the present convention.

This provision will not be applicable and the Society will not incur the loss of the concession in the case where the Society has not carried out its obligations because of "force majeure" duly proved.

ARTICLE 16

The Society will have the right to collect freight and passenger rates according to the traffic of the Cahier des charges, from the date of the provisional acceptance of the works of each part until the end of the Concession.

ARTICLE 17

The transport of the soldiers and sailors, travelling in bodies or alone, in times of war and peace, as well as the material and provisions of war, prisoners and convicts, the Agents of State, and the postal bags will be effected in conformity with the terms of Chapter 6 of the Cahier des charges relative thereto.

ARTICLE 18

The Society will have, without that which constitutes for it a monopoly, the right to establish at its cost, risk and peril, the subsidiary branches necessary to connect the railway with mines granted to it and which it proposes to exploit in conformity with this convention. These branches will revert gratuitously to the State in the same manner as the mines at the expiration of the present concession. The Society will have the right to connect its oil wells with desired points in Turkish territory by a pipe line following such route as may be most feasible from a technical and economical standpoint. The Company will agree to carry in its pipes petroleum other than its own provided that such petroleum is not detrimental to the pipe line system or other petroleums transported and does not interfere with the transportations of the company's petroleum.

Right of way for such lines to be secured in the same way as that of land expropriations and of abandoning to the Society of the "Arazi-i-Emeriye-i-Haliye" for the Railway mentioned in this convention, as far as compatible with the law.

ARTICLE 19

The Society will have, without that which constitutes for it any privilege of monopoly, and on condition that it conform to the Gov-

ernment laws and regulations, present or future in the matter, the right to utilize gratuitously natural water power in a zone twenty kilometers on each side of the railway of which the right of enjoyment belong to no one, and to produce electric power which may be necessary for the operation of the Railway and its dependencies as well as for the mines and mineral deposits. It also can sell electric power to third parties, but shall comply with the formalities of the law regarding the matter and have its tariffs especially approved by the Government. The plants for such electric installations must, before their execution, be approved by the Minister of Public Works.

The electric installations will go to the State at the expiration of the concession gratuitously.

In case, however, the Government purchases the Railroad and takes over the electric installations it shall pay to the Society a sum equal to the value of such installations as agreed to by specialist representatives of both parties.

Failing such agreement, an arbiter, agreeable to both side, will be appointed by both said representatives to make the decision, which will be in force. Should they not be able to decide on such a person, the First President of the Supreme Court (Cour de Cassation) of the Government of the Great National Assembly will appoint such an arbiter.

However, in case of purchase of railways such electric installations as serve for mines and mineral deposits or for mineral subsidiary branches, will remain up to the end of the time fixed in Article 2 of the present convention the property of the Society:

Article 20

The Society will have the optional right to construct at its cost, at Youmourtalik a Port with all the installations necessary for the mooring alongside quays of ships and the embarking and debarking direct of passengers and of cargo and the storage of the latter. The plans of such port must be presented to the public Works Department for study, in a maximum delay of five years, reckoned from the time when the present Agreement becomes definitive and the works of the port must be finished within seven years from the same date.

The tariffs of the port should be annexed to the above plans for the approbation of the Government.

This port will be an integral part of the Railway and the gross receipts will be included in the gross receipts of the Railway. At the expiration of the concession this port and its dependencies will revert to the State gratuitously. In case the Society shall not pre-

sent the plans or shall not execute the port in the delay above mentioned, the Government can accord the concession to third parties. In any case, the Society may, during the period of construction of the Railway, establish in the Port of Youmourtalik provisional installations for the unloading of material destined for the Railway, but if the Society shall not execute the port, in the period specified and the Government gives the concession for the port to third parties, the Society will be obliged, if the Government makes such demand upon it, to remove, at its cost, all the maritime installations which it may have established.

ARTICLE 21

The Society will construct and exploit the Railways referred to in Article 1, of the present definitive convention, at its cost, risk and peril, and without pretending to any guaranty or pecuniary assistance from the Government, and shall have full benefit from the revenues up to the end of the concession, except in the case of purchase of the concession after deducting the Government's share of profits according to Article 42 hereafter.

ARTICLE 22

At any time after the 30th year reckoned from the time when the present concession shall become definitive, the Government of the Great National Assembly of Turkey will have the right to purchase the Railway and its dependencies (exclusive of the mines and mineral branches) as well as the port of Youmourtalik in case it is built and the Government's share of profits according to Article 42 hereafter by paying to the Society at the end of each year remaining to run up to the end of the concession an annuity equal to the net annual average profit of the five years of exploitation preceeding that to which the sale shall be made.

The net profit of each year will be calculated after deducting from the gross receipts, mineral subsidiary branches excepted, the operating and upkeep expenses of the railway and its dependencies and the port of Youmourtalik, if constructed, referring to the same year.

The interest and amortizement of the amount expended for the first installations are not naturally included in these expenses.

The Government will assure to the Society the regular payment of this annuity, which will, in no case, be less than Francs 7,500.— (gold) per kilometer of Railway, or such greater sum as may be necessary to pay the interest and amortizement of the bonds of the Railway, dependencies and port, then outstanding. The Government reserves to itself the right to convert if it so desires, this annuity, into capital which it will pay in one cash payment to the Society,

taking as a basis for the cancellation of the capitalization the rate of interest the bonds outstanding as stated above.

The sale and delivery to the Government be made of the Railway line, of electric installations, and so forth, provided for in Article 19, and of the port of Youmourtalik free of all sorts of debts and engagement and the Government will purchase the material and supplies on hand in accordance with Article 30 of the Cahier des charges.

Article 23

At the expiration of the concession the Government will be substituted for the Society in all the rights of the Society in the Railway, the port of Youmourtalik (in case of the execution of the latter) and of their dependencies in the mines, mineral deposits, mineral subsidiary branches, water powers and other installations, and materials, and will enter into the enjoyment of the income arising therefrom.

It will take over the line and port and their dependencies, the mines and mineral deposits free of all sorts of debts and engagements and in good repair up to the end, and the Government of the Great National Assembly of Turkey will buy the material and supplies in conformity with Article 28 of the Cahier des charges.

Article 24

The employees and Agents of the Society will be Turks and the Society shall establish the necessary schools for the purpose of training them for their technical duties. However, the Society can employ, in that which concerns the superior personnel of the operation, foreigners whose names shall be communicated to the Ministry of Public Works. It can also employ a certain number of technical men and foreign foremen, All the employees and Agents connected with the physical operation of the Railway shall wear the uniform which shall be approved by the Government. The Society shall have the right to import Turk immigrants, under contract or otherwise for the construction and/or operation of any of the works authorised in this convention.

Article 25

The Government can build at its cost, forts and works of defence at principal points of the line and branches or at the port of Youmourtalik whenever it shall judge necessary.

Article 26

Objects of art and antiquities discovered during the work will be subject to the regulations governing the matter.

ARTICLE 27

In the case where without cause of "force majeure" duly proved, the Society shall have ceased the service of the trains or where it shall not have executed the other engagements devolving upon it by the present convention and Cahier des charges, it will be deprived of its rights to the concession for the railway, the port of Youmourtalik, and of its rights in regard to the mines and mineral deposits, and in this case proceedings will be taken in conformity with Article 28 of the Cahier des charges.

Likewise, the case of "force majeure" always excepted, if the Society has not, in the delays provided in Article 6, presented the plans or commenced, or finished the works of any of the sections forming the line Youmourtalik to the Junction with line (1) or, again, if having finished the line Youmourtalik to line (1), it has not completed the grading and stone *travaux d'art* of the first 150 kilometers of line (1) from Sivas towards Van, the Government may pronounce the forfeiture of the concession and/or other rights, and proceedings will be taken under the provisions of Article 28 of the Cahier des charges.

It is always intended that forfeiture cannot be pronounced until after the Government shall have notified the Society "une mise en demeure" demanding that the Society fulfill the obligations assumed which remained unexecuted; and only in the case, when this last has not been done according to the notice after a period of six months beginning from the date of receipt of the said notice.

If on the contrary, the part of the system forming the line from Youmourtalik to the junction point with line (1) as well as the grading and stone *travaux d'art* of 150 kilometers reckoned from Sivas in the direction of Van, is finished in the time stipulated in Article 6th, but the other sections are not finished in the time stipulated in Article 6th the Society will only lose rights to other sections not finished, works completed on the uncompleted sections and the mines and mineral deposits belonging to the said section will revert gratuitously to the state.

ARTICLE 28

The Society will establish at the point designated by the Government, in the stations, the locations necessary for the office of the Government Agents charged with the inspection of the system and of the employees of the customs, the post, the police and the Gendarmery.

ARTICLE 29

The Society must establish over the whole of the road, telegraph and telephone lines and instruments destined to transmit the sig-

nals and despatches necessary for the service of the Railway; but these lines cannot serve for private Correspondence having no reference to the operation of the Railway.

The Government of the Great National Assembly of Turkey reserves the right to control at any moment by inspectors delegated by the Ministry of Posts and Telegraph, all telegraphic correspondence sent over the wires of the Railway.

The Government can make use of the telegraph posts of the railway to establish a telegraphic wire for official use only, and the poles of the Railway will be set in a manner to enable them to support eventually, this supplementary wire, besides those of the Society.

In case of need the Government will have the right to establish, at its own cost, other poles along the course of the way, or to install in case of rupture and derangement of the telegraph lines, operators in the station for the transmission of official despatches which it shall consider important, by the lines of the Society. However it must cause no embarrassment to the service of the Railway.

Article 30

The Society will have the right to transfer, with its proper means of transport and without paying any tax to the Administration of the Posts of Turkey, correspondence and sacks concerning exclusively the service of the Railway and of the mines and mineral deposits but, on condition that it submits to inspection and control the Agents of the Administration of Posts. The private letters of the personnel, will be subject to the postal taxes. The Society cannot effect the transport of these letters of the personnel, but they must pay postage according to the laws of Turkey. It will also have the right to transport, and without the collection of any charge therefore, personnel objects and materials for consumption, such as oil, grease, materials and rolling stock necessary for the construction, repair and exploitation of the Railway and its dependencies, (mines and mineral deposits not included) and this, not only for the lines making the object of this concession and their dependencies, but also for the extensions and branches, the concession for which shall be accorded to the Society later. On the contrary, the materials necessary for the establishment and exploitation of the mining installations, as well as the products extracted from the mines, exploited by the Society, and for the Railways connecting with the mines, will be transported by paying the tariffs in force on the Railways.

Article 31

The Society shall have the right to construct such lines and branches as may be necessary or desirable and with the approval

of the Public Works Department, leaving its system mentioned in Article (1) provided they do not interfere with acting concessions and exploit them in conformity with the stipulations of the present convention and cahier des charges regarding the principle line.

In the case where the Government wishes to accord to third parties, a concession for other lines or branches leaving the system indicated in Article 1, the Society will have the right of preference under equal conditions for the concession of these lines or branches. It being intended that the Society shall, in a period of six months, reckoned from the notification which shall be given by the Government, make known officially its intention to make use of its rights of preference. It is intended that the said right of preference shall be applicable only during the first 20 years counted from the moment when the present concession becomes definitive.

It is equally intended that if the Society shall not execute, in its entirety, the system provided for in the first article of the present convention, or other lines which may be substituted for the said system, it cannot make use of the present right of preference.

ARTICLE 32

In the case where the Turkish Government shall order or authorize the constructions of streets or roads or Railways, or Canals, which shall cross the line made the railway system of the present convention, the Society cannot oppose these works, but all dispositions will be taken so that no obstacle shall result to the construction or operation of the Railway or cause any expense to the Society.

ARTICLE 33

The Government has granted to the *Concessionnaire* or to the Society which shall be substituted for the *Concessionnaire* the exclusive concession for the exploitation, in conformity with the Mines regulations, of all the Mines and quarries existing in the zone twenty kilometers each side of the Railway to be constructed according to this convention with the exception of the right already given to third parties, and provided that the provisions of Article 40 hereof are observed, such mines as may be discovered by the *Concessionnaire* or the above mentioned Society or by third parties after the date of the signature of the present convention and including also the mines exploited by the Government, and in general all the mines abandoned, belonging to the category of discovered or undiscovered mines.

The term "Mines" abovementioned and which follow, includes all the mineral deposits, mineral water springs, petroleum areas. If

the Public Works Department changes the route chosen by the Society or substitutes for it another route, at the time plans and projects are submitted for approval, the Society will have the right within a delay of one year, reckoned from the date when the said plans and studies shall be approved of substituting the mineral zone of its original route for that of the approval route. However; if the modifications made by the Government are deemed necessary owing to the fact that the Society did not follow the general direction established by the Government, the Society will lose the above mentioned optional right.

ARTICLE 34

The Society will exploit the mines and mineral deposits mentioned in Article 33 in conformity with the existing laws and regulations and the concession for the mines and quarries will expire the same day as the Railway concession.

The Society will pay all the proportional and fixed (royalty) taxes and other duties established by the present laws and regulations but if the taxes and other duties are increased later on, the Society will not be bound to pay anything over the amount existing on the day when the present convention will be signed. However, if such taxes are reduced, the Society will have the benefit of such reduction, but if later on they are increased, the Society will be bound to pay such increase not over the amount existing on the day when the present convention shall become definitive.

The Society will have the benefit of all facilities and exemptions stipulated in the mines concession regulations.

The Society will buy all movable and immovable installations and campment existing in the discovered mines, to be turned by the Government to the Society according to the value which shall be estimated by experts approved by both parties.

ARTICLE 35

The Society is not bound to ask for permits of search of mines in the zone of the concession. However, the Society will inform the Economic Department every time it shall begin to exploit a mine and supply the Ministry of Economics with four copies of the plans of the mine to be exploited prepared on the scale of 1/500 meters.

ARTICLE 36

As soon as the route of line number (2) shall be approved, the Society will have the right without a special authorization being required, of beginning the exploitation of mines and mine deposit situated in the zone of the sections where the route is already laid

out, however the Society is not authorized to transport ingots or dispose of the ore found or extracted until the Railway of the same section is finished and opened to traffic.

The Society will have to notify the Ministry of Economics as to the limits of each mine. Such notification will be considered as being in lieu of the delivery and reception of the mine it concerns.

It is especially understood that the obligation of exploiting a quarry or mine, is subordinated to the finishing and opening for traffic of the Railway of the same section.

ARTICLE 37

The Society is bound to exploit according to the rules of the technic, the mines and quarries it finds and receives from the Government within the lands of the Concession.

The Society shall lose its rights to each mine or quarry that it abandons for more than two years consecutively, except in case of "force majeure".

ARTICLE 38

The Society will have the right to construct refineries to work or refine the ore extracted from its mines, or from other mines, (but this right will not constitute a monopoly or concession).

ARTICLE 39

The Society will supply the Public Works Department and the Ministry of Economy every six months with a report of the operations and accounts of the mines.

ARTICLE 40

The Society will not, on account of the rights granted in Article 33 of the present convention, interfere with, or raise any objections about the mines and quarries which shall be discovered by third parties in the zone conceded after a period of twenty years reckoned from the date when the present convention will become definitive.

ARTICLE 41

It is understood that if the Government establishes a tax on petroleum or other mineral or internal consumption in Turkey, the Society shall have to pay such taxes.

ARTICLE 42

On the gross receipts of the mines and the Railroad, the necessary amounts to fully pay the following:

1.–The general expense of the exploitation.
2.–Yearly interest and amortisement of bonds.
3.–Sinking fund.
4.–12% Dividend for shareholders

shall be deducted, and of the remaining profits 30% will be paid to the Government of the Great National Assembly of Turkey, and 70% will be retained by the Society.

ARTICLE 43

The "Arazi-i-Emireye-i-Haliyé" lands necessary for the mining works shall be given to the Society gratis. As for the lands belonging to third parties the Society shall act in conformity with the mining law and the law of expropriations.

ARTICLE 44

The term "becomes definitive" as used herein, means when the *Concessionnaire* finally and definitively accepts the Concession after technical studies within two years for which it has the option, and informs in writing the Minister of Public Works to that effect.

ARTICLE 45

The Turkish Limited Society which shall be formed in conformity with Article 4 hereof, shall have the right to transfer to Turkish Limited Liability Societies, which may be formed under the authorization of the Government, all or part of the rights, properties, materials, and obligations which it may possess in conformity with the present convention and the Supplementary contract.

It is however understood that the Society formed under Article 4 hereof, shall remain responsible to the Government for its obligations hereunder and under the Supplementary contract.

ARTICLE 46

Any difference which may arise between the Turkish Government and the Ottoman–American Development Company or the Turkish Limited Society which shall be substituted for it, relating to the execution of the interpretation of the present convention and the Cahier des charges relative thereto, will be settled by the Council of

State, or if the Council of State is abolished, by such other body as may be substituted for it.

As to the proceedings between the Society and individuals, they will be referred to Competent Courts of the Government of the Great National Assembly of Turkey.

The Society being under the laws of the Government of the Great National Assembly of Turkey, will correspond with all Departments of the State, in Turkish, which is the official language of the Government, and the Turkish language will be used in all the accounts correspondence and books concerning the operation of the railroad, the mines and other dependencies.

[Enclosure 3—Translation]

Supplementary Contract between the Turkish Government and the Ottoman-American Development Company

Between:

His Excellency Feyzi Bey, Minister of Public Works, acting on behalf of the Government of the Great National Assembly of Turkey,

Party of the First Part,

And

K. E. Clayton-Kennedy and Arthur Chester acting on behalf of the Ottoman–American Development Company, a Society formed under the laws of Delaware, U.S.A., in conformity with a Power of Attorney dated 5th May, 1922,

Party of the Second Part,

it has been agreed and determined as follows, and this Contract shall be ratified by Parliament:

ARTICLE 1

The Government of the Great National Assembly of Turkey, accords, under the conditions of the present Supplementary Contract, the Principal Convention, and the Cahier des Charges annexed thereto, to the Ottoman–American Development Company, which accepts the concession for the construction and the exploitaion of Railroads of standard gauge, 1,435 meters wide measured inside flange of the T. rail as follows, to wit:

a.–From Samsoun via Havza, Amassia and Zile to Sivas.
b.–From a point near Moussa-Keuy on the line (*a*) to Angora.
c.–From a point near Tchalti between Sivas and Harpoot on the line (1) stipulated in the Principal Convention to Erzerum.
d.–From a point on the Tchalti-Erzerum line to a Black Sea Port.

e.–From a point near Hodja Chafatli on the Angora Sivas line to Kaissarie.
f.–From Kaissarie to Oulou Kishla.
g.–From Erzerum to the Persian Border.

The whole following the route which shall be approved by the Minister of Public Works.

ARTICLE 2

The duration of the concession shall be ninety-nine years, reckoned from the date at which the present and Principal Convention shall become definitive, as stated in the Principle Agreement.

ARTICLE 3

The National Government shall supply the Company with, and transfer to it, all the studies already prepared for the Samsoun-Sivas Line, the Ports of Samsoun and Trebizonde, and the Angora–Sivas; Oulou-Kishla–Kaissarie; Tchalti–Erzerum; Pekeritch–(or Ash–Kalé) Black Sea lines as well as the grading works and construction, buildings and all the rolling stock and Railway plants, against payment for same.

ARTICLE 4

Within six months from the date of the ratification by the Great National Assembly of Turkey, of this Contract, the Society will notify the Minister of Public Works whether or not it definitively accepts the Samsoun–Sivas lines, the port of Samsoun, and the Angora–Moussa Keuy line, and will, if accepted, commence works on the former within a period of one month from that date, and on the Angora–Moussa Keuy line within six months from the same date.

If the Society, after having accepted these lines and the port, does not start the work in the delays stipulated here above, it will lose all the rights and privileges granted to it by the Principal and present Supplementary Conventions, and the provisions of the Article of the Principal Convention relating thereto shall be applicable.

Within two years, as stipulated in the Preliminary Agreement for lines 1, 2, 3 the Society will notify the Minister of Public Works whether or not it definitively accepts the lines Tchalti–Erzerum; Hadji Shafaatli–Kaissarie; Kaissarie–Oulou Kishla; Pekeritch–(or Ash Kalé) Black Sea; Erzerum–Bayazid and Persian Border.

The Society will start grading work on the Section Sivas–Tchalti, of line I, stipulated in the principal Convention, when the laid down rails of the Samsoun–Sivas will reach a distance one hundred kilometers from Sivas and finish the construction of the Tchalti–Erzerum line within six and a half years from the date fixed for the

completion of the Samsoun–Sivas line. The Society will present the studies of the Pekeritch (or Ash Kalé)–Black Sea, and start work on same within two years after this Convention becomes definitive, and finish within a delay of five years reckoned from the date when this Convention shall become definitive.

The construction of the Hadji Shefaatli–Kaissarie will start within a delay of three years reckoned from the date when this Supplementary Convention shall become definitive, and will be finished within five years reckoned from the same date.

The construction of the Kaisserie–Oulou Kishla line will start within a delay of four years reckoned from the date when the present Supplementary Convention shall become definitive and will be finished within a delay of two years from the date when the work should be started.

The construction of the Erzerum–Bayazid and Persian Border line will start two years after the date when the railroad reaches Erzerum and the same should be open for traffic four years after the date when the construction will be started.

ARTICLE 5

The Ottoman–American Development Company will pay to the Turkish Government the value of all the materials, studies, works, constructions and rolling stocks supplied in conformity with Article 3.

ARTICLE 6

The engagement assumed in conformity with the present Supplementary Contract shall be executed by the Ottoman–American Development Company or by the Turkish Limited Company to be formed as stipulated in Article 4 of the Principal Convention, and which will be substituted for the former Company.

ARTICLE 7

The Ottoman–American Development Company or the Turkish Limited Company which will be substituted for the former, will begin the construction of Samsoun–Sivas line within the delay of one month reckoned from the day when the present Contract shall become definitive as stated in Article 4 hereof and will finish and open it for traffic in a period of three years, reckoned from the date when starting. The same Company will begin the construction of the Angora–Moussa Keuy line and Samsoun port within a period of six months reckoned from the day when the present Contract shall become definitive, and have it opened to traffic in a period of four years from the date of starting.

ARTICLE 8

The Company will construct for its own account and at its own risk a Port at Samsoun and the Sea terminus of the Pekeritch-(or Ash Kalé) Black Sea line, capable of letting ships moor alongside its quays and provided with necessary equipment for loading and unloading of passengers and cargo, rolling stock and power plants in conformity with the preliminary studies already made, or acceptable alternatives.

ARTICLE 9

The period of construction of the above mentioned Port is four years reckoned from the day when the present Supplementary Contract shall become definitive.

ARTICLE 10

A separate Agreement and Specifications shall be signed for the above mentioned Port.

ARTICLE 11

The Company shall have the right to change the terminus of the line (1) from Van to Van Lake with navigation rights (not a monopoly) on Van Lake.

ARTICLE 12

The Company will have the right to modify line (2) which will start from a convenient point of the line (1) stipulated in the Principal Convention, in such a way that the said line (2) joins the Bagdad line on a convenient point and that it leaves the former at another convenient point. In case the modification of the line as above stated, is accepted, the Turkish Government will give the Society every possible facility and assistance in arranging that the trains of the line (2) as well as those of the Branch lines—if constructed—over which the Company is given prior rights in conformity with the Principal Convention or options, according to the present Supplementary Agreement, may be allowed to run on the portions of the Bagdad line.

The whole to be approved by the Minister of Public Works.

ARTICLE 13

The *Concessionnaire* shall have the option for seven years from the date of the ratification of the present Contract, of accepting the

inclusion on the same general terms and conditions as those of the principal Convention and Cahier des Charges of the following line:

h.–From a point on the Samsoun–Sivas line near Hadji Bayram to a point near Cherekli on the Angora–Moussa Keuy line via Choroum and Songourlou.

The whole following the route which shall be approved by the Minister of Public Works.

ARTICLE 14

The construction and the exploitation of the above mentioned lines shall be submitted to all the stipulations of the Principal Convention and Cahier des Charges.

ARTICLE 15

The present Contract is supplementary to the Convention and Cahier des Charges concerning the lines from Sivas to Van, and from a point on this line to Moussoul, Guerkeuk and Suleimanié and from another point on the same line to Youmourtalik.

[Enclosure 4]

Certified Translation of Law Ratifying the Chester Concession

ARTICLE I.—The annexed Preliminary Agreement, the Principal Convention,[72] and the technical Cahier des Charges, concluded between the Ootman [*sic*]-American Development Company, a corporation formed under the laws of the States [*sic*] of Delaware of the U.S.A. whereof Messrs. K. E. Clayton-Kennedy and Arthur Chester are the Representatives, and the Public Works Department of the Government of the Great National Assembly of Turkey, are accepted together with the list of modifications also annexed.

ARTICLE 2.—The Minister of Public Works is charged to carry out the provisions of this law.

April 9th, 1339.
Shaban 22nd, 1341.

Conforms with the original

Seal of the
PUBLIC WORKS DEPARTMENT,
Railroads and Ports Section
Signed: ZIA

[72] In the translation transmitted by the High Commissioner at Constantinople in his despatch no. 908, Aug. 29, the words "the Supplementary Contract" are added at this point.

[Enclosure 5—Translation]

The Turkish Minister of Public Works (Feyzi Bey) to Messrs. Clayton-Kennedy and Chester of the Ottoman-American Development Company

Nr. 1201/3878 ANGORA, *30 April/1 May, 1923.*

By your application dated 30th April 1923, we note that you have accepted the additional modifications as proposed, in the Conventions concerning the concession of the Eastern Anatolian Railroads, which has been signed and exchanged yesterday. We inform you that the following three modifications are also accepted by our Department, and we are expecting to see the Company commence as soon as possible an action:

1.–Article 4th of the Supplementary Contract concerning the Samsoun-Sivas and Angora-Moussa Keuy lines, as well as the Port of Samsoun. On the expiration of the optional time of six months if the Company does not give notice to the Government, whether or not it accepts the constructions of the above lines and the port, or if the Company informs the Government that it will not accept the said undertaking, the Company will lose all its rights for the said lines and for the said port. In this case, the Company will be held to hand over to the Public Works Department all the technical documents whether they are handed to it by the said Department, or they are prepared later by the Company.

2.–The time of four years fixed for the starting of the construction of the Oulou-Kishla Kayssary line, is shortened to one year.

3.–The delay of two years fixed for the starting of construction works of the line Pekeritch (or Ash-Kalé) to Black Sea, is accepted to be one year.

FEYZI

867.602 Ot 81/393 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *August 23, 1923—5 p.m.*
[Received 5:24 p.m.]

217. I learn from the local Turkish agent of the Ottoman-American Development Company that the Turkish Government is showing increasing concern at the failure of the company to give any sign that it is alive. For the last 19 days the agent has heard nothing from New York. He says that while the agricultural con-

cession has not been formally cancelled as yet, it has been practically annulled and that a French company will obtain it. He points out that the date upon which the Samsoun-Sivas option expires is October 6. I would be pleased to receive telegraphic information regarding latest developments in the company's affairs, especially as to whether Clayton-Kennedy or Chester plan to return to Turkey and whether the financing of the concession has advanced at all.

BRISTOL

867.602 Ot 81/393 : Telegram

The Acting Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *September 17, 1923—6 p.m.*

169. The Ottoman-American Development Company has informed the Department that Clayton-Kennedy is leaving at once for Turkey to have the option on the Samsun-Sivas line extended six months if possible. The Department has now received a copy of the arbitral award of August 23.[73] By this award the Barnard-Kennedy interests will take control of the concession when they have made certain specified payments to the Chester interests. There is an initial payment of $8,500 due on October 1, and by November 23, 1923, a satisfactory bond must be deposited guaranteeing payment of $200,000 by December 31, 1924. If this is not done the Chesters regain their rights. They claim that they are prepared to carry out the concession and to send Mr. J. W. Colt, who was formerly associated with the Chester interests, to Turkey.

It is understood that Clayton-Kennedy has with him a copy of the arbitral award and is carrying copies of letters to Feizi Bey and yourself from Blackall as manager of the company. The letter to you requests that you forward to Angora the letter to Feizi Bey. The originals have been sent here to be transmitted by pouch, but the Department has indicated that you cannot transmit the letter to Feizi Bey as it is not clear that it involves an undoubted American interest. However, for your confidential information copies of these letters are being sent by pouch.

According to the latest reports which the Department has received, Barnard and Clayton-Kennedy were trying to raise money in New York to buy out the Chesters and to make the carrying out of the concession by them as an American enterprise possible. The Depart-

[73] Not printed.

ment has no information that they were successful, and possibly they may turn now to foreign capital. On this point, however, we have no direct information. . . .

We will mail a full report, but the above summary will give you a sufficient idea of the confusion which prevails and the uncertainty as to whether the project now has a substantial American interest back of it. Under these conditions we do not feel that in connection with representations which Clayton-Kennedy may make to you or to the Turks you would be justified in taking action which would give the Turks the impression that we are satisfied with respect to the bona fide and substantial American character of the interests which are behind the project. If these interests should establish themselves in control of the concession you should, however, carefully avoid taking any action which might be construed as detrimental to such interests, since it is still possible that American interests may obtain control, although this seems uncertain. We hope soon to be able to give you more definite information.

PHILLIPS

867.602 Ot 81/393 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *October 3, 1923—3 p.m.*

184. Our telegram 169 of September 17. Apparently American interests are making a belated attempt to take control of the Chester concession. They have asked the Department to secure an extension of the option for the Samsoun–Sivas line. Specifically they have asked us to authorize Imbrie [74] to telegraph Raouf Bey [75] requesting such an extension. They are in personal contact with Imbrie. The Department has refused to give the authorization requested, believing such action would be neither appropriate nor effective. The Department has, however, stated that it would take appropriate action through you and through Barnes at Angora upon receiving satisfactory evidence that a substantial American investment was involved and that the extension of the option would serve the best interests of American commercial enterprise in Turkey. The reply to this has been that, while it was hoped that substantial American interest could be proved shortly, it was not possible to submit such proof

[74] Vice Consul Robert W. Imbrie, formerly at Angora, on leave in the United States.

[75] President of the Turkish Council of Ministers.

prior to October 8 and that in order to secure substantial American participation it was necessary that the option be extended.

Report by cable whether you believe that in case the option is not exercised the Turks will denounce the Samsoun-Sivas contract and whether Turks regard October 8 or October 28, six months after contract was signed, as the date of expiration of the contract. Report also as to whether friendly attitude of the Turks in this matter or their desire to have American interests carry through this concession has been affected by the resignation of Raouf Bey.

If they really wish to have American interests carry through the concession, the desired result would probably be facilitated by an extension of the option.

According to the latest reports which we have received, Clayton-Kennedy is in Paris and is demanding $2,500 and expenses before going to Constantinople. It is also reported that an offer of $200,000 has been received for a one-tenth Italian share in the project from an Italian Commander Fago.

On the basis of the information in its possession the Department would not be justified in authorizing formal representations for an extension of the option. The above information may, however, be useful to you. Department desires to be kept informed as to developments and as to the attitude of Turkish officials.

HUGHES

867.602 Ot 81/407 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 8, 1923—4 p.m.*
[Received 10:35 p.m.]

264. Your telegram 184 of October 3.

1. It is the wish of the Turkish Government that the Chester concession be carried out by [garbled group]. The resignation of Raouf Bey does not change the situation at all. The Turks generally, as well as the Government, are disillusioned and skeptical regarding the carrying out of the Chester concession. I am convinced, however, that the higher Turkish officials are still hoping against hope that the Chester project will be carried out as the prestige of the Government is seriously involved. They will, therefore, probably go as far in accommodating the Ottoman-American Development Company as the temper of the Assembly and public sentiment will permit.

2. If reasonably satisfactory evidence is forthcoming as to the financial backing of the company, I believe that the Turks will extend the Samsoun-Sivas option for three months and maybe longer. The Government would have to defend such an extension before the Assembly and general public opinion and would have to have material for this purpose.

3. Clayton-Kennedy arrived here October 5 and leaves today for Angora. He plans to place the following proposition before the Turkish Government:

(*a*) He will ask that the Samsoun-Sivas option be extended for three months and that certain minor technical changes be made in the definitive contract and specifications. It is hoped that interpretations of the contract by the Ministry of Public Works will secure these changes.

(*b*) If Clayton-Kennedy can secure the extension and changes desired, he will offer as proof of good faith to deposit immediately the 20,000 Turkish pounds which the contract requires in two years time. Also he will undertake to present to the Turkish Government within one month a certified list of subscribers to be transmitted through the Department of State.

Apparently Clayton-Kennedy worked out this proposition in consultation with Cromwell [76] and Farnham [77] at Paris. These two men put up the money for deposit or at least it comes through them. It is Cromwell who has undertaken to produce the list of subscribers. While the names of the subscribers are not known to Clayton-Kennedy, he declares that all of them will be Americans. He made a categorical statement that no attempt will be made to enlist non-American financial backing, for the present at any rate. He added, however, that Cromwell might admit French capital later on. Clayton-Kennedy informs me that prior to the elimination of the Chester group Cromwell has refused to be openly identified with the Ottoman-American Development Company. Cromwell recently found in his office at New York the securities of the old Chester Company which apparently belong to the Moore estate. . . .

. . . . . .

I will report fully to the Department with respect to Clayton-Kennedy's [activities?]. I would like to receive information from the American end regarding the situation of the Ottoman-American Development Company at present, especially as to the position of the Chester group.

BRISTOL

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[76] William Nelson Cromwell, New York lawyer.
[77] Roger L. Farnham, New York banker.

867.602 Ot 81/414 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 15, 1923—5 p.m.*
[Received 9:11 p.m.]

269. Clayton-Kennedy arrived here from Angora yesterday and leaves today for Paris. He expects to remain there a few days in consultation with Cromwell and Farnham and then to come back here. He gives me the following information with respect to his visit at Angora.

Clayton-Kennedy accepted definitely in writing options for the Angora–Moussa-Keuy and Samsoun–Sivas lines. For all practical purposes the Turks have accepted the technical changes in the specifications and definitive agreement. The Government gives Clayton-Kennedy a choice of two following lines of action.

(*a*) He can receive a few months extension by depositing 100,000 Turkish pounds, which sum can be used for the expenses of the company.

(*b*) He can commence work on a small scale, as called for in the contract, within 30 days from October 9, by sending to Samsoun engineers to survey and in other ways engage in formal activity as distinguished from effective operations.

The Turkish position as given above has been stated orally and also in a somewhat indirect manner in letters from the Minister of Public Works, Feizi Bey, to Clayton-Kennedy. The latter has telegraphed to New York that he has accepted the options and choice of procedure allowed by the Turkish Government. He has recommended that the second alternative be accepted and already he has hired about half a dozen Turkish engineers who can start on short notice for Anatolia. His estimate of the cost of the second alternative program will be 10,000 Turkish pounds. . . .

BRISTOL

867.602 Ot 81/402 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 27, 1923—10 a.m.*
[Received 11:10 p.m.]

283. Below follows substance of telegram received yesterday from Barnes:

The Turkish Minister of Public Works, Feizi Bey, has stated that the Ottoman-American Development Company had the support of Imbrie, who was instrumental in having the concession granted to that company.[77a] When Barnes expressed surprise, his informant said that he could obtain a statement to that effect from Feizi in writing. If work on the Samsoun-Sivas line is not begun by November 10, there is reason to believe that Feizi will resign on that date. Barnes states that should the contract for the concession become invalid on account of a monopoly [*sic*] the United States will lose more economic and political prestige than anyone has as yet realized. In that case Turkish officials and people will tend to use the "Chester yard stick" as a measure of our representations for the protection of life and property. In closing, Barnes says that if the Department considers the controlling factor in the situation to be the protection of American political and economic prestige, and if the Department is able to give material assistance to any American group in a serious effort to carry out the concession, it should give such aid even though it involves a substantial change in the policy which the Department has pursued regarding the Chester concession up to the present time.

I agree with Barnes in the views presented above, and these views are held generally by Americans here. The present situation in Turkey is a standing invitation to the commercial adventurer and repels the conservative American business man. I foresee not only the failure of the Chester concession but also a number of "Chester fiascoes" of one kind or another for some years to come, unless the Department feels it can change its present policy regarding American business enterprises abroad, to the extent at least of exercising some effective direction and control over the activities of Americans who seek Turkish concessions. The Turkish Government will be seriously weakened by the failure of the Chester project, which will lead to a renewal of intrigues by rival concession seekers. Consideration should be given in this connection to the fact that American concession seekers are seriously handicapped in competition with their British and French rivals, whose standing is given official backing after investigation and whose endeavors are directed and supplemented by the officials of their respective Governments.

I raise the question in respect to the Chester concession whether the Department cannot exercise pressure to put in order the present chaotic internal affairs of the Ottoman-American Development Company. As far as I can see there is no hope that the company can be reorganized by any power coming from inside the company or from those who are associated with it. Every day it looks more certain that the project will fail unless the Department intervenes.

[77a] See despatch of Dec. 7, 1922, from Vice Consul Imbrie at Angora, *Foreign Relations*, 1922, vol. II, p. 981, and instruction no. 294, Jan. 15, 1923, to the Acting High Commissioner at Constantinople, *post*, p. 1198.

It is my earnest hope that the Department can put into effect the point of view presented in this telegram.

BRISTOL

867.602 Ot 81/420 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *October 29, 1923—5 p.m.*

201. Your telegram 283 of October 27. There is no legal power or authority vested in this Department to exercise effective direction and control with respect to the affairs of American concession seekers. You must appreciate this and that any effort to assume extralegal authority for this end would soon prove futile, not to mention the difficulties which most likely would be created by such unauthorized conduct. This Department must limit itself to giving genuine American enterprise appropriate diplomatic support. It cannot assume obligations which the Government would be powerless to discharge.

The consequences of whatever disappointments may result from particular failures would be slight in comparison with those which would result, should the Administration adopt an incorrect attitude and assume authority, both entirely contrary to the traditional policy of this Government and unjustified by law.

The Department cannot entertain your suggestion that it should interfere with the internal affairs of the Ottoman-American Development Company. This company is a stock company and the Government has no control in matters concerning stock control and corporate management. For the Government to intervene in an American company's internal affairs would of necessity mean the assumption of a responsibility which the Government cannot undertake. The condition of the Ottoman-American Development Company is to be regretted but the causes for it are not within the control of the Department. It serves as an illustration of the undesirability of having this Government actively espouse commercial undertakings in which it does not have a financial stake. In their initial stages such enterprises might be of such a character that perhaps they could not be ignored on account of the representations of the American interest involved, yet later it might develop that this interest was not substantial or was not so organized as to make itself effective. This Government quite obviously is not able to supply

capital for such enterprises as the Chester project, to undertake the responsibility of seeking to procure American investments, or to dictate to persons who consider that they have interests needing protection.

Unfortunate as the Ottoman-American Development Company's failure may be, the Department cannot share the view that our political and economic prestige in Turkey for the future depends upon the failure or success of any particular business undertaking. Apparently the terms of the concession have not been looked upon by American business men as a practical proposition. This should not be forgotten. The Department, furthermore, has been led to believe by the circumstances under which the concession was granted that the Turkish Government was seeking to further its own political purposes, as well as endeavoring to obtain American economic assistance, and that it is not the prestige of the American Government but that of a particular Turkish Cabinet which is involved in the failure or success of a concession which the Turks granted without making any serious attempt to obtain assurance as to the possibility of the realization of their desires. As an example, I call your attention to your despatch no. 636 of January 15, 1923,[78] in which you quote Adnan Bey [79] to the effect that although he thought the Chester concession would be approved by the Assembly, he doubted whether the company would fulfill its engagements.

The Department has again and again in its telegraphic instructions indicated its attitude of reserve, and it is our understanding that this position has been scrupulously adhered to by the High Commission and its representatives at Angora.

HUGHES

867.602 Ot 81/424 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *November 6, 1923—11 a.m.*
[Received 3:50 p.m.]

292. In telegram from London dated November 2, Clayton-Kennedy instructed Soubhi Bey, his representative here, to send to Samsoun technical staff and to arrange to have work begun on

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[78] Not printed.
[79] Vice President of the Turkish Grand National Assembly.

November 9. Although Clayton-Kennedy also states that funds are being transmitted by telegraph they have not been received as yet and Soubhi Bey has found it necessary with much difficulty and personal sacrifice to raise money here for the maintenance and traveling expenses of the technical staff. Yesterday four Turkish engineers started for Samsoun, and an American engineer is leaving today. Their instructions are to call upon the local authorities when they reach Samsoun, to begin work with appropriate ceremonies, and to obtain from the authorities, if possible, a *procès-verbal* stating that work has been begun. Then they will hire about 40 or 50 workmen who will be employed in repairing the ballasting of the portion of the Samsoun-Sivas railway which has already been built. Today Soubhi Bey will himself leave for Angora with an engineer to receive formally the Arland documents with respect to the lines for the construction of which option has been accepted. He also will try to have the beginning of construction officially accepted. It is believed that Clayton-Kennedy sailed on November 3 for a three weeks' visit to the United States. It is not known here what was the outcome of his negotiations with Cromwell and Farnham. If the funds which Clayton-Kennedy promised in his telegram of November 2, do not arrive before November 9, it will create an intolerable situation. Also the Turkish Government may refuse to regard the somewhat formal commencement of work at Samsoun as effectively fulfilling the terms of the contract.

BRISTOL

867.602 Ot 81/427 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *November 10, 1923—noon.*

[Received 4:20 p.m.]

296. My telegram 292 of November 6. Report from Barnes states that the Minister of Public Works on November 8 informed the representative of the Ottoman-American Development Company, Soubhi Bey, that the Turkish Government was unable to accept the company's contention that work had commenced on the Samsoun-Sivas line in accordance with the contract. The Ministry gives the company, however, until November 25 to present satisfactory evidence that it has secured sufficient capital to begin serious work.

If this is done the Turks will extend all facilities to the company. Yesterday Soubhi Bey left for Constantinople.

BRISTOL

867.602 Ot 81/424 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Paraphrase]

WASHINGTON, *November 12, 1923—4 p.m.*

209. Your telegram 292 of November 6. The information which the Department has does not indicate that any American company or group has the slightest interest in advancing funds to make it possible for the Ottoman-American Development Company to begin work on the Samsoun-Sivas line. It was recently stated by Arthur Chester that in accepting the Samsoun-Sivas line, Clayton-Kennedy had exceeded his powers. The suggestion was made that later the company might wish to take the position that it was not a valid acceptance.

Chester also indicated that he had received information that directors of the Ottoman-American Development Company who were friendly to Barnard had resigned, that failure was admitted by Clayton-Kennedy, and that the company's affairs were so hopelessly tangled that Chester did not have any hope that the company could be put on its feet. He then made the suggestion that there was only one possible course of action. That was to induce Turkey to make a new grant of the concession to a genuine American company. The Department offered no comment on this.

We believe that in the present circumstances you should take no action indicating approval of Clayton-Kennedy's activities.

HUGHES

867.602 Ot 81/437 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *December 21, 1923—3 p.m.*

[Received December 21—3 p.m.]

335. The Turkish Minister of Public Works on December 18 notified Soubhi Bey through a notary that the Chester concession had been annulled. The company's representative on the same day

ordered that work at Samsoun be discontinued. There is, however, reason to think that should Clayton-Kennedy reach Angora reasonably soon with proof that he had substantial financial support the contract would be revived.[80]

BRISTOL

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[80] The High Commissioner at Constantinople telegraphed Mar. 10, 1925, that there was no reason to believe that the Turkish Government had changed its attitude toward the Chester concession and that practically the "concession as negotiated in 1923 is dead". (File no. 867.602 Ot 81/462.)

VENEZUELA

ACQUIESCENCE BY THE UNITED STATES IN THE RATIFICATION BY VENEZUELA OF THE SPANISH TEXT ONLY OF THE EXTRADITION TREATY SIGNED ON JANUARY 19 AND 21, 1922[1]

211.31/30

The Minister in Venezuela (Cook) to the Secretary of State

No. 330 CARACAS, *April 17, 1923.*

[Received May 1.]

SIR: Referring to the Department's written instruction No. 786 of March 2, 1923,[2] authorizing me to proceed with the exchange of ratifications of the Extradition Treaty between the United States and Venezuela and the additional article thereto, signed at Caracas on January 19 and January 21, 1922, respectively, I have the honor to report that the exchange of ratifications was effected in the Venezuelan Foreign Office on April 14, 1923 by Doctor Pedro Itriago Chacín, the Minister for Foreign Affairs, and myself. The Spanish text of the treaty supplied by the Government of Venezuela, and the signed English original of the Protocol of Exchange is enclosed herewith.[2]

Prominent mention was made in the newspapers of the 15th instant of the exchange of ratifications.

I have [etc.] WILLIS C. COOK

211.31/30

The Secretary of State to the Minister in Venezuela (Cook)

No. 802 WASHINGTON, *May 29, 1923.*

SIR: The Department acknowledges the receipt of your No. 330 of April 17, 1923, transmitting the instrument of ratification by Venezuela of the Extradition Treaty between the United States and Venezuela and additional article thereto, which you accepted in exchange for the instrument of ratification of the said treaty and additional article by the United States.

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[1] For text of treaty, see *Foreign Relations*, 1922, vol. II, p. 995.

[2] Not printed.

In the Department's instruction No. 786 of March 2, 1923,[3] you were instructed as follows:

"Before proceeding to the exchange you should satisfy yourself that, with the exception of the observance of the *alternat*, the texts of the treaty and additional article, as contained in the Venezuelan ratification, are in strict conformity with the texts as included in the United States ratification."

The Department regrets to find that in exchange for the United States ratification you accepted an instrument which ratifies only the Spanish text of the treaty and additional article. As the English text is equally a part of the treaty and the additional article with the Spanish text, the instrument of ratification by Venezuela should incorporate both the English and Spanish texts as did the United States instrument of ratification. The Department is therefore returning to you the Venezuelan ratification of the Spanish text in order that you may obtain in substitution for it an instrument of ratification by Venezuela incorporating the English as well as the Spanish text.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

211.31/31

The Minister in Venezuela (Cook) to the Secretary of State

No. 381 CARACAS, *June 11, 1923.*
[Received June 26.]

SIR: I have the honor to reply to the Department's written instruction No. 802 of May 29, 1923 (File No. 211.31/30), in regard to the Instrument of Ratification by the Venezuelan Government of the Extradition Treaty between the United States and Venezuela and additional article thereto.

I respectfully state that in accepting and transmitting to the Department an Instrument which ratified only the Spanish text, I did not do so inadvertently. Two officials of the Venezuelan Foreign Office (one, the Chef du Protocol) brought the Instrument of Ratification to this Legation to compare it with our Instrument of Ratification. At that time I promptly called their attention to the fact that their Instrument was only in Spanish, while ours incorporated both the English and Spanish texts, and that my instructions required that the Instrument which I should accept

[3] Not printed.

for transmission to Washington should incorporate both the English and Spanish texts. These official representatives of the Venezuelan Foreign Office assured me, however, that it was not their custom to incorporate any other than the Spanish text and they cited as examples treaties with Great Britain and with Italy. Moreover, on the day of going to the Ministry for Foreign Affairs to exchange ratifications, I again officially stated that the Instrument which the Venezuelan Government was furnishing me should incorporate both the English and Spanish texts, and they again, after a consultation in the Foreign Office, assured me that it was not the practice of Venezuela to use other than the Spanish text in the Instrument of Ratification.

I have the honor to add that when conforming with the Department's instructions in returning today the Venezuelan ratification of the Spanish text, to obtain in substitution therefor an instrument of ratification by Venezuela incorporating the English as well as the Spanish text, the Foreign Office again repeated the statement that it was not their practice to include other than the Spanish text; and I had to inform them that it was absolutely necessary that the Instrument of Ratification contain both texts.

I have [etc.] WILLIS C. COOK

211.31/32

The Minister in Venezuela (Cook) to the Secretary of State

No. 417 CARACAS, *July 18, 1923.*
[Received August 1.]

SIR: I have the honor to refer to my despatch No. 381 of June 11th last, in reply to the Department's instruction No. 802 of May 29, 1923 (File No. 211.31/30), concerning the Instrument of Ratification by the Venezuelan Government of the Extradition Treaty between the United States and Venezuela and additional article thereto.

After repeated conversations at the Ministry for Foreign Affairs, and after the receipt by the Legation of a Memorandum, a copy and translation of which is enclosed herewith, I sent the Minister for Foreign Affairs a note on June 20th last, a copy of which is also enclosed. No reply has as yet been received to this communication.

I have [etc.] WILLIS C. COOK

[Enclosure 1—Translation]

The Venezuelan Ministry of Foreign Affairs to the American Legation

MEMORANDUM

The ratification of the Extradition Treaty with the United States has come in English and Spanish, and the American Legation expresses the desire that the said instrument of Ratification, on the part of Venezuela, be made in the same manner.

The Law ratifying the said Treaty includes the text of it only in Spanish, which is the legal language of Venezuela, and if the English text were introduced into it the law would [have to] be changed.

The practice of Venezuela has been to send the text of the ratification in Spanish.

However, in order to respond to the desires above mentioned, the English text of the Treaty could be copied below the Law ratifying it, with an appropriate certificate as to its correctness from the Minister for Foreign Affairs.

CERTIFICATE

The Minister for Foreign Affairs of the United States of Venezuela, the undersigned, certifies that the text in English of the Extradition Treaty between Venezuela and the United States of America, as embodied in the said Treaty, is the following:

The Minister

ADDITION TO THE ACT OF EXCHANGE

It is hereby set forth that below the Instrument by which Venezuela ratifies the Extradition Treaty to which the present Act refers, a copy of the English text of the said Treaty was inserted, the correctness of which was duly certified to by the Minister for Foreign Affairs.

[Enclosure 2]

The American Minister (Cook) to the Venezuelan Minister for Foreign Affairs (Itriago Chacín)

No. 222 CARACAS, *June 20, 1923.*

EXCELLENCY: I have the honor to inform Your Excellency that my Government has returned to me the Instrument of Ratification by Venezuela of the Extradition Treaty between the United States and Venezuela and additional Article thereto, with instructions to

obtain in substitution therefor, an Instrument of Ratification by Venezuela incorporating the English as well as the Spanish text.

. . . . . .

The original Extradition Treaty and additional article thereto which was signed by the representatives of Venezuela and the United States, respectively, was in both the Spanish and English languages, therefore the Instrument of Ratification which you present my Government should include both texts. Otherwise, the ratification would not be complete, as the English text is equally a part of the Treaty with the Spanish.

I therefore have the honor to request Your Excellency to be so kind as to furnish me with an Instrument of Ratification in substitution of the one which has already been returned to your Ministry, in which there is incorporated the English as well as the Spanish text.

Accept [etc.] WILLIS C. COOK

211.31/33

The Minister in Venezuela (Cook) to the Secretary of State

No. 487 CARACAS, *September 27, 1923.*

[Received October 11.]

SIR: With reference to the Department's instruction No. 802 of May 29, 1923, and to the Legation's despatches Nos. 381 and 417 of June 11th and July 18th, respectively, relative to the Instrument of Ratification of the Extradition Treaty with Venezuela, I have the honor to report that the Minister for Foreign Affairs has informed me that there is nothing that his Government can do in regard to including the English text in the instrument of ratification of the Extradition Treaty and additional article thereto, other than that mentioned in the memorandum enclosed with my despatch No. 417 of July 18th.

The only other treaty recently entered into between the United States and Venezuela was the Arbitration Treaty signed March 21, 1914.[4] The ratifications were exchanged in Caracas February 12, 1921, and is [*were*] reported in Despatch No. 2,272 of February 16, 1921.[5] However, there is nothing in the Legation's files which indicate[s] whether or not the English text was included in the instrument of ratification.

I have [etc.] WILLIS C. COOK

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[4] *Foreign Relations*, 1921, vol. II, p. 941.

[5] Not found in Department files.

211.31/33

The Secretary of State to the Minister in Venezuela (Cook)

No. 820 WASHINGTON, *October 18, 1923.*

SIR: The Department acknowledges the receipt of your despatch No. 487 of September 27, 1923, concerning the Instrument of Ratification by the Venezuelan Government of the Extradition Treaty recently concluded between the United States and Venezuela, and the additional article thereto.

The Department accepts the suggestion made by Venezuela as indicated in the memorandum enclosed with your despatch No. 417 of July 18, that the English text of the Instrument of Ratification by Venezuela following the Spanish text may be copied and certified to by the Minister of Foreign Affairs.

You are instructed, therefore, to recall this matter to the attention of the Foreign Office with a view to securing the English text of the Instrument of Ratification by Venezuela appropriately certified as indicated in the memorandum referred to above.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

211.31/35

The Minister in Venezuela (Cook) to the Secretary of State

No. 591 CARACAS, *December 14, 1923.*
[Received December 29.]

SIR: With reference to Department's instructions of October 18th, 1923 and telegram No. 28 1/2 [*28*] of November 17, 5 p. m.,[6] concerning the Instrument of Ratification by the Venezuelan Government of the Extradition Treaty recently concluded between the United States and Venezuela, and additional Article thereto, I have the honor to enclose herewith Venezuela's Instrument of Ratification[6] including the English text thereof appropriately certified as indicated in the memorandum enclosed with my dispatch No. 417 of July 19 [*18*], and approved by the Department in its instructions of October 18, 1923, and the signed English original of the Protocol of Exchange.[6]

I have [etc.]

WILLIS C. COOK

[6] Not printed.

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